

RFU ILLICIT DRUGS POLICY

SUMMARY OF AND RATIONALE FOR POLICY MODIFICATIONS (with effect from 1 September 2010)

Since the Illicit Drugs Policy was launched in April 2010 work has been ongoing through the Illicit Drugs Working Group particularly in relation to the procedures which will apply for hair testing for illicit drugs. As a consequence some modifications have been made to the Policy and it is important that these are notified to and understood by players and club personnel.

The most significant modification to the Policy is that with effect from 1 September 2010 a hair sample test which returns an Adverse Analytical Finding for an Illicit Drug may constitute a Violation and can be subject to sanction. The procedure for hair sample collections is now included in Schedule 2. The other significant modification is in relation to the process for an admission of use of an Illicit Drug by a player.

Modification to Paragraph 7.3 - Hair Samples now subject to sanction

The words "*or hair*" have been added in line 3.

Consequence

- A hair sample which returns an Adverse Analytical Finding for an Illicit Drug may now constitute a Violation and may be sanctioned under the same process as an Adverse Analytical Finding from a urine sample.

Rationale

Previously under the Illicit Drugs Policy only urine sample results would be used for the purpose of determining a Violation. This was in line with the RFU anti-doping policy which follows WADA standards. WADA does not, at present, recognise findings from hair tests for the purpose of anti-doping violations and sanctions.

However discussions since the launch of the Policy with the Union's appointed testing agent Concateno regarding the validity and reliability of hair tests for work-place related testing, and also feedback from PRL and RPA that most players who expressed a view do want hair tests to be a full part of the testing regime, led the Working Group to agree the modification.

It is important to remember that whereas sanctions imposed under the RFU anti-doping policy apply to the game worldwide, the Illicit Drugs Policy applies only to players who fall under the jurisdiction of the RFU ie players playing in England and England National Representative Team players contracted to clubs outside England. Any sanctions applied to such players will not normally be enforceable outside England (unless any other Union formally agrees to recognise the RFU Illicit Drugs Policy and sanctions arising from it).

The vast majority of tests under the Illicit Drugs Policy will be undertaken on players who earn their livelihood from playing rugby in or for England, therefore the Illicit Drugs testing programme is more akin to a workplace testing regime than to the anti-doping programme. Concateno conducts in the

region of 9,000 workplace hair tests in the UK per annum, mostly for UK police forces and government agencies, the results of which have never been successfully challenged).

Modification to Paragraphs 9.4 (b) and (c) - Pre-employment tests

At the end of (b), the wording “, and, in the event of an Adverse Analytical Finding, with the Programme Review Group for the purpose of determining possible future target testing of the Player” has been added.

In line 7 of paragraph (c), the wording “or as grounds for future target testing of the Player” has been added.

Consequences of the Modification

- Any positive pre-employment test results will now be shared with the Programme Review Group and will be justification for that player to be target tested.
- The player’s consent section on the Pre-Employment Test Form has been amended accordingly.

Rationale for the Modification

During the course of discussions regarding positive hair tests being subject to sanction it was debated whether or not this should extend to pre-employment tests. It was decided that pre-employment tests should remain as “Monitoring Samples” and therefore not in themselves be sanctionable. One reason for not changing this was the complication of players from outside England being subject to pre-employment tests. However it was agreed that the results of positive pre-employment tests should be grounds for target testing that player (assuming he is under the RFU’s jurisdiction). This necessitates positive test results being provided to the Programme Review Group, two of whom are required to decide on target tests in accordance with paragraph 7.2 and Schedule 2 paragraph 2 (i).

Modification to Paragraph 9.4 - Players transferring clubs

A new paragraph (e) has been added *“in the event that a Player who is in the process of undergoing assessment, treatment or rehabilitation under this Policy has transferred to another Club, the Programme Medical Director shall share such information as appropriate with the Player’s new Club’s medical officer, all such medical information being managed according to the GMC principles of medical confidentiality. Under no circumstances shall the previous Club’s medical officer discuss or share information related to the Player’s illicit drugs assessment, treatment or rehabilitation with the new Club’s medical officer unless the Player has specifically consented to this.”*

Consequence of the Modification

- The medical officer of the player’s new club is taken into confidence regarding any assessment, treatment or rehabilitation which the player is undergoing. (Information is not shared with the new club prior to the transfer taking effect, nor for any previous but completed assessment, treatment or rehabilitation.)

Rationale for the Modification

This is treated as a health-related medical issue and the player's right to confidentiality following a first Violation is protected. However, clubs retain the right to ask all players who they may be considering contracting to take a pre-employment test, including any player who, unbeknown to them, might be undergoing assessment, treatment or rehabilitation.

Modification to Paragraph 11 – timing and process for a valid admission of use

New paragraphs 11.2 and 11.3 have been added:

11.2 Such an admission by a Player may be made provisionally to his Club's medical officer but the admission shall not be effective until it is confirmed to the Programme Medical Director either by the Club's medical officer on behalf of the Player or by the Player himself. Confirmation of the admission may be made verbally (and is preferred) and the Programme Medical Director's acknowledgement of the admission shall record the effective date and time of the admission. In light of paragraph 11.3 below, early confirmation of admissions is advised.

11.3 An admission by a Player confirmed to the Programme Medical Director at any time on the same day that the Player is notified of his selection for testing (even if the admission is prior to the arrival of the SCO) or at any time between the day of sample collection and the test result being reported to the RFU, shall not count as an admission for the purposes of paragraph 11.4 below. The sample collection and analysis must still be completed notwithstanding the admission by the Player. If an Adverse Analytical Finding is reported, the due process outlined in paragraph 8 of this Policy shall apply notwithstanding the admission.

Paragraphs 11.1 and 11.4 have minor consequential amendments.

Consequences of the Modification

- A player may make an initial admission of use to his club medical director who may notify the Programme Medical Director on behalf of the player.
- Admissions made after a player has been tested, but before his result is known, or admissions made after a player becomes aware that he might be tested (eg the arrival of the Sample Collection Officer at his club) will not result in him avoiding a Violation and the fixed financial penalty if the test result proves positive.
- Tests must be completed even if an admission of use is made prior to or during the sample collection. (Admissions made to any other person such as the Sample Collection Officer, or on the Sample Collection Form, will not be valid admissions until the Programme Medical Director has been notified as explained above.)

Rationale for the Modification

It was anomalous to have a situation whereby a player who had either given a sample, or had been selected for a sample, and knew he was going to test positive, made an admission of use before the result was known and thereby avoided a Violation and the fixed financial penalty. It was agreed that not only should any planned sample collection proceed to conclusion but that the result of the test must take priority over such an admission.

This then meant that the timing of an admission and when the admission becomes valid had to be clarified. In doing so it was agreed that the player may make his admission initially to his club medical officer but that it will not be a valid admission until the Programme Medical Director is informed by either the club medical officer or the player.

Other Minor Modifications

Some other minor wording modifications have been made to the Policy but these are clarifications or procedural and none result in any change in policy.

Schedule 2 – Testing Procedures

Following consultation with the Testing Agent, Schedule 2 has been amended to cover both urine and hair samples.