

[REDACTED]

Sent via email only: [REDACTED]

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13 December 2017

Official

Ref: FOI-160

Dear [REDACTED]

Thank you for your e-mail dated 15 November 2017, which requested information from UK Anti-Doping ('UKAD') pursuant to the Freedom of Information Act 2000 ('the Act'). You requested information pertaining to the UKAD investigation into the package delivered to Team Sky in 2011 ('the investigation'), specifically, your request was as follows:

1. *Please disclose how many members of UKAD staff worked on the investigation into the package delivered to Team Sky in 2011;*
2. *Please disclose the name of the lead investigator;*
3. *Please provide a breakdown of the cost of the investigation.*

Staff who worked on the investigation

UKAD can confirm that 23 members of staff worked on or were involved with the investigation from time to time. No member of staff was working on the investigation full-time.

Name of the lead investigator

Firstly, there was no "Lead Investigator" with respect to the investigation. That is, there was no one appointed with such a title. However, there were three persons who acted as the primary investigators at different times throughout the investigation.

The Information Commissioner has confirmed that a record that an individual held a certain post, and therefore had certain responsibilities, is personal data about them. Therefore, if UKAD is to disclose the name of the lead investigator or investigators it must consider first whether that disclosure is fair. If UKAD concludes that the disclosure would not be fair, then it is exempt pursuant to Section 40(2) of the Act.

Is it fair to disclose the name of the Lead Investigator?

The Information Commission has said that disclosure is unlikely to be fair if it would have unjustified adverse effects on the employee/s concerned, for example, if disclosure would cause them harm or distress (such as by exposing them to threats or harassment). It is also important to consider the seniority of the persons

involved. The more senior an employee, the more likely that disclosure of that person's name and position would be fair, though each case is to be considered on its facts.

UKAD has concluded that it is not fair to disclose the names of the primary investigators in this case for the following reasons:

- With respect to two of the three investigators involved, they do not hold senior positions. While they do exercise a degree of judgment in their role day to day, none of the investigators were responsible for the outcome of the investigation.
- With respect to the most senior investigator involved, although this person holds a senior title *within his/her team*, this person was not responsible for the overall outcome of the investigation, but rather the day to day management. UKAD's CEO and Directors had ultimate oversight of the matter, and their details are available on UKAD's website.
- With respect to all three primary investigators, it is UKAD's view that release of their names would expose them to harassment both from members of the public generally and from journalists, in particular any persons dissatisfied with the investigation's outcome. The high-profile nature of the investigation, which has involved a British Olympian and Tour de France champion, is particularly relevant in this regard.
- Further, with respect to each of the three primary investigators, none holds a public facing role. Investigators at UKAD have no public facing functions as this would impact on their ability to perform their investigatory role, a role that requires confidentiality and discretion at all times.
- While there is a legitimate interest in the public having access to the details of those persons responsible for making key decisions within UKAD (for reasons of transparency and oversight), having balanced this interest against the interests of the employees in this case and the distress that would be caused to them in their private life, UKAD is of the view that the balance falls in favour of not disclosing the information you have requested. In coming to this conclusion, UKAD has taken into account the comments of the Information Commissioner that, in the case of Section 40(2), the interaction with the Data Protection Act means that the assumption *in favour of disclosure* (which is generally applicable under the Act) is reversed. UKAD also considers that the public's legitimate interest in having oversight of key decision makers is not served by disclosure of the information requested for the reasons set out above; namely that the persons you have requested be identified are not members of the Executive Team.

Having determined that disclosure would not be fair, the information requested is therefore exempt pursuant to Section 40(2) of the Act.

Breakdown of the cost of the investigation

In respect of your request for a breakdown of the cost of the investigation, please note that as a matter of standard practice UKAD employees are not required to and do not record when and how much time they have spent on a particular matter, as is generally the case in private legal firms which charge for their time on an hourly rate. UKAD therefore does not hold a record of the total number of hours spent by UKAD staff dealing with this matter and is not able to calculate its internal legal, investigative or other costs incurred with any degree of accuracy. UKAD is therefore unable to provide a figure as to the total cost of the investigation or the total internal costs of the investigation.

You may be aware that Nicole Sapstead, UKAD's Chief Executive, gave an estimate of the number of hours spent on the investigation by UKAD staff when appearing before the Department of Digital, Culture, Media

and Sport (DCMS) Select Committee in March 2017. The figure therein provided ('in excess of 1,000 hours') was an estimate of time spent on the investigation until February 2017. The estimated figure provided was calculated based on an informal internal audit of time spent by those persons who had worked on the investigation in each of UKAD's departments. There has been no further internal audit since March 2017 and in any event such exercise would result in no more than an approximation of time spent, rather than actual cost.

UKAD confirms that it holds information regarding the external legal costs incurred in regard to the investigation, that is, of the disbursements incurred by UKAD. UKAD can confirm that it has incurred disbursements in regard to the following:

- Costs for legal services provided by Bird & Bird LLP.

UKAD can confirm that £24,690 has been incurred in legal costs in respect of the investigation; and anticipates further legal costs of approximately £17,000 in respect of work yet to be invoiced.

Where to from here?

If you are dissatisfied with the handling of your request, you have the right to ask for an internal review. Internal review requests should be submitted within two months of the date of receipt of the response to your original letter and should be addressed to: Philip Bunt, Director of Business Services, UK Anti-Doping, Fleetbank House, 2-6 Salisbury Square, London EC4Y 8AE. Please remember to quote the reference number above in any further communications.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Yours sincerely



UKAD