

Official

Ref: FOI-269

Sent via email only: [REDACTED]

06 August 2020

Dear [REDACTED]

1. We write in relation to your request for information under the Freedom of Information Act 2000 (the 'Act'), reference FOI-269.

### Background to your request for information

2. In your original request for information under the Act, reference FOI-253, you asked:

*"In 2014, UK Sport convened a meeting to discuss hypothyroidism among elite British athletes. Among others there, UKAD sent a representative. Please could you forward the minutes of that meeting and any subsequent correspondence between UKAD and UK Sport on the matter."*

3. By email dated 5 February 2020, you clarified that "*any subsequent correspondence ... on the matter*" was a request for any subsequent correspondence between UKAD and UK Sport relating to hypothyroidism among elite British athletes.

4. In a further email dated 17 February 2020, you extended your original request for information by asking for:

*"... any correspondence (whether by email or other means) between UKAD and UK Sport (or UK Athletics) on the matter of hypothyroidism and use of thyroxine among British athletes."*

5. In its response to FOI-253, UKAD therefore informed you that it would treat your extended request – i.e. for any correspondence between UKAD and UKA Athletics ('UKA') after the meeting in 2014, on the matter of hypothyroidism and the use of thyroxine among British athletes – as a separate request, reference FOI-269.

**FOI-269**

---

6. In response to the first part of your request, UKAD confirms that it does not hold the information you have requested. That is to say, there was no correspondence between UKAD and UKA regarding hypothyroidism among British athletes following the meeting in 2014.
7. In response to the second part of your request, UKAD confirms that it does hold the information you have requested. That is to say, there was correspondence between UKAD and UKA regarding the use of thyroxine among British athletes following the meeting in 2014 ('the Correspondence'). However, we are withholding the Correspondence under the exemption in section 41 of the Act.

**Section 41 – Information provided in confidence**

Section 41(1) states:

*Information is exempt information if –*

*(a) it was obtained by the public authority from any other person (including another public authority), and*

*(b) the disclosure of the information to the public (otherwise than under this Act) by the public authority holding it would constitute a breach of confidence actionable by that or any other person.*

8. The Correspondence was provided to UKAD by UKA, a legal person for the purposes of section 41(1) of the Act. It has the quality of confidence and was shared with UKAD in circumstances which imported an obligation to keep it confidential.
9. In the circumstances, disclosure of the Correspondence would be an unauthorised use of it to the detriment of UKA, in that it would hamper UKA's ability to communicate in confidence with UKAD in future, and make it less likely that individuals will voluntarily provide confidential information to it.
10. Accordingly, disclosure of the Correspondence would constitute an actionable breach of confidence against UKAD by UKA.
11. We have considered whether a public interest defence would apply in any potential action for breach of confidence, and have concluded that such a defence would not be successful. Under section 41 of the Act, the public interest in maintaining confidentiality prevails unless the public interest in disclosure outweighs it.
12. We consider that this is not the case as there is a strong public interest in UKAD maintaining the confidentiality of the Correspondence. It is imperative that UKAD is

able to correspond with sports' governing bodies in confidence in order to work towards its public policy objective of eliminating doping in sport.

13. Given the limbs of the relevant tests for an actionable breach of confidence have been made out, and no defence exists, any such action would be likely to succeed.

## Conclusion

---

14. 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 request and should be addressed to: Philip Bunt, Chief Operating Officer, UK Anti-Doping, Fleetbank House, 2-6 Salisbury Square, London EC4Y 8AE. Please remember to quote the reference number above in any further communications.
15. 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

A handwritten signature in blue ink that reads "UK Anti-Doping".

**UK Anti-Doping**