

10 January 2023

By email: [REDACTED]

Dear [REDACTED]

**Erythropoiesis Stimulating Agents (ESAs) and Isotope Ratio Mass Spectrometry (IRMS) FOI request (FOI 350) – Internal Review**

You will be aware that UK Anti-Doping (UKAD) is a government body and that we are largely funded by a DCMS grant. We were established to discharge the UK government's obligation to the [United Nations International Convention against Doping in Sport](#). We do that by making sure we implement and comply with the [World Anti-Doping Code](#) and associated International Standards issued by the World Anti-Doping Agency (WADA). We make sure that sports meet their obligations under the UK government's [National Anti-Doping Policy](#) and the [UK Anti-Doping Rules \(UKADR\)](#). As an Arm's Length Body UKAD is subject to the requirements of the Freedom of Information Act 2000 (the Act) and those responsibilities are taken very seriously.

Thank you again for your emails of 5 and 6 December 2022 requesting an Internal Review of UKAD's initial response to your FOI request. I have been asked to undertake that Internal Review.

I am sure that you are aware of the Information Commissioner's Office (ICO) guidance around timescales for Internal Reviews which states that public authorities should provide a target date for response, which should usually be within 20 working days. Allowing for the Christmas closure that takes us to 10 January 2023.

I note that on 1 September 2022 you asked for:

- a) The total number of tests UKAD conducted on all footballers in 2016, 2017, 2018, 2019, 2020 and 2021
- b) Of these tests, how many were ESA tests? (in 2017, 2018, 2019, 2020, 2021)
- c) Of these tests, how many were IRMS tests? (in 2017, 2018, 2019, 2020, 2021)

On 15 September UKAD asked you to clarify your request and on 11 November UKAD responded to your request, providing the information requested under (a) and declining to provide the information requested under (b) and (c).

While the focus of your request was English Football, UKAD's approach to the publication of this information is consistent across all sports.

I think it is important to draw a distinction between ESA testing and IRMS testing and have carried out my internal review accordingly. I think it is also helpful to draw a distinction between information provided to WADA by National Anti-Doping Organisations (NADOs), International Federations (IFs) and laboratories in compliance with the World Anti-Doping Code which WADA subsequently includes in its annual testing figures and additional information which NADOs or IFs choose to publish.

### **ESAs**

Since you highlighted the [WADA 2020 Anti-Doping Testing Figures report](#), I have also used that information. Since you compared UKAD and NADA Deutschland (NADA), I have also done so in the table below.

	<b>UKAD</b>	<b>NADA</b>
<b>Total samples reported</b>	5,392	1,1073
<b>Urine samples</b>	5,052	9,611
<b>GC/C/IRMS</b>	75	111
<b>ESA</b>	1,673	3,242
<b>IRMS/urine</b>	1.48%	1.15%
<b>ESA/urine</b>	33.12%	33.73%

Thank you for the link to a media report regarding testing in 2003/4 carried out by UK Sport. The disclosure by UK Sport was for ESAs (but not for IRMS) and was made almost 20 years ago. UKAD has not published this information on any occasion during the 13 years since it was established. The reason for this decision was set out clearly in the response to your request as being on the basis that disclosure of this information would be likely to prejudice the exercise by UKAD of its regulatory function.

NADA started publishing its ESA testing by sport in 2015. We are not aware of any other NADOs which publish this information voluntarily. As previously explained UKAD decided not to publish this information. This is because UKAD considers disclosure would provide assistance to footballers who may seek to cheat, by giving an insight into UKAD's testing and sample analysis operations and enabling testing patterns to

be identified, allowing them to take steps to avoid detection. We cannot comment on whether or not NADA's publication decision undermines its testing programme.

In my judgement it is reasonable for different NADOs to reach different decisions about how they operate and what they publish. There are local factors which each NADO needs to take into account when forming these judgements. The advantage of WADA's reporting is that it is standardised across all NADOs and the data is therefore comparable.

Thank you for providing a link to the UEFA anti-doping programme for its 2021/22 season. While WADA reports on ESA analysis by testing authority, we are not aware of any other International Federations (IFs) which publish this information voluntarily. As Code signatories all IFs have no choice about the reporting of their data by WADA.

### **IRMS**

I note your further reasoning about the level of IRMS testing and it is interesting to note that the 2020 WADA statistics by testing authority show that IRMS as a proportion of urine samples was 3.1%. This is similar to UKAD's 1.48%

As with ESAs, UKAD has not released this information on any occasion during the 13 years since it was established. The reason for this decision was set out clearly in the response to your request as being on the basis that disclosure of this information would be likely to prejudice the exercise by UKAD of its regulatory function.

As previously explained UKAD decided not to publish this information. This is because UKAD considers disclosure would provide assistance to footballers who may seek to cheat, by giving an insight into UKAD's testing and sample analysis operations and enabling testing patterns to be identified, allowing them to take steps to avoid detection.

### **Conclusion**

Having reviewed the response to your request I have concluded that UKAD's decision to withhold the information in accordance with the Freedom of Information Act 2000 ('the Act') is reasonable.

### **Next steps**

This letter concludes UKAD's Internal Review. As set out in [UKAD's FOI publication scheme](#) if you remain dissatisfied after the Internal Review and feel we have not complied with our obligations under the Freedom of Information Act, you will be able to

complain to the Information Commissioner. You can contact the Information Commissioner at:

The Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire SK9 5AF  
Information Line: 01625 545745  
Switchboard: 01625 545700  
Fax: 01625 524510  
Email: [mail@ico.gsi.gov.uk](mailto:mail@ico.gsi.gov.uk)

Yours sincerely



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