

Official

Ref: FOI-226

[REDACTED]
Sent via email only:
[REDACTED]

29 April 2019

Dear [REDACTED],

1. Thank you for your email of 20 March 2019 in which you requested information from UK Anti-Doping ('UKAD') under the Freedom of Information Act 2000 ('the Act'). You requested information pertaining to the testing of individual players and universities affiliated with BUCS University Rugby.
2. This request is related to your earlier request with reference FOI-218, a copy of which is **enclosed**.
3. Specifically, you have requested the following information:

"I understand that you cannot reveal the date/time of the test or which university team was tested for the reasons you have outlined.

However, would it be possible to know:

- a) *how many universities were tested in each year; and*
- b) *the number of individual players tested?"*

4. Pursuant to your earlier request, UKAD has interpreted your request as relating to the calendar years from 2014 to 2018.

Summary of Response

5. UKAD is disclosing the number of individuals who provided samples at BUCS university rugby competitions and from any rugby team affiliated or registered to BUCS in the period 2014 to 2018, as per point b) of your request.

6. UKAD is not disclosing the information requested in part a) of your request. The detail of the basis for this response is set out below.

Part b) of your response

7. UKAD confirms that it holds the information requested and provides a response to your request via the table below.
8. For clarity, we have provided both the number of tests and the number of individuals tested in the table. Please note the meaning of a “test” is any successful attempt to test a single player. If multiple samples (blood and urine) are collected from a player in a single Sample Collection Session, this is counted as two successful tests. The figures below include tests conducted by UKAD on its own behalf and on behalf of other anti-doping organisations.

BUCS university rugby – number of tests and individuals tested from 2014 to 2018

	Number of tests	Number of players tested
2014	22	14
2015	16	16
2016	10	10
2017	32	31
2018	28	23
Grand Total	108	94

Part a) of your response

9. UKAD confirms that it holds the information requested. However, we are withholding this information under the exemption provided in section 31 of the Act on the grounds that releasing the information would be likely to prejudice the exercise by UKAD of its regulatory functions.
10. Section 31(1) provides as follows:

Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice –

(g) the exercise by any public authority of its functions for any of the purposes specified in subsection (2) ...

11. Section 31(2) provides:

The purposes referred to in subsection (1)(g) to (i) are—

(b) the purpose of ascertaining whether any person is responsible for any conduct which is improper...

12. One of UKAD's core functions is to identify and prosecute any athlete or other person who commits an Anti-Doping Rule Violation ('ADRV') contrary to the UK Anti-Doping Rules ('the Rules')¹. This function falls within section 31(2)(b) of the Act. UKAD uses its testing program to discover ADRVs.
13. It is UKAD's view that publishing this number would risk undermining the testing program. This is because disclosing such information would provide advanced notice of the likelihood of being tested to specific athletes and provide more general insight into UKAD's testing strategy and patterns.
14. Having determined that disclosure would prejudice the identification of the commission of ADRVs, UKAD has considered the public interest arguments in favour of releasing the information. In particular, we recognise that disclosure would reinforce the principles of transparency and accountability, by providing the public with specific information about the testing regime and its application to specific sports.
15. However, UKAD considers that the more important public interest lies in the maintenance of an effective anti-doping regime, so that UKAD can work towards its public policy objective of eliminating doping in sport. Disclosing the information requested would undermine the effectiveness of the testing program as it would be likely to reduce both its deterrent effect and its effectiveness in detecting prohibited substances.
16. UKAD has concluded that the public interest in knowing how many universities were subject to testing is outweighed by the public interest in ensuring the effectiveness of UKAD's testing program. UKAD therefore withholds this information under section 31 of the Act.
17. In coming to this view, UKAD has taken account of the fact that the public interest arguments in favour of disclosure, as discussed above, are sufficiently met by the

¹ <https://www.ukad.org.uk/resources/document/uk-anti-doping-rules>

level of detail that is being disclosed in paragraph 8 above and in UKAD's previous response to you.

Conclusion

18. 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, 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.
19. 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

Official

Ref: FOI-218

Sent via email only:
[REDACTED]

18 March 2019

Dear [REDACTED]

1. Thank you for your email dated 14 February 2019, in which you requested information from UK Anti-Doping ('UKAD') under the Freedom of Information Act 2000 ('the Act'). You requested information pertaining to the testing of players affiliated with BUCS University Rugby. Specifically, you requested the following information:
 1. *"Please supply a complete list of the number of anti-doping test samples collected in BUCS university rugby, for last five years (2015-2018).*

Where possible, I would like the response broken down as specifically as possible, e.g.:
 - a) *University*
 - b) *Date/ time of test*
 - c) *Whether the tests were out-of-competition tests or in-competition tests*
 - d) *The outcome of each test"*
2. By email dated 15 February 2019, UKAD requested further clarification from you, namely whether your reference to the 'last five years' covered the period from 2014 to 2018. By return email of the same date, you confirmed that this was the case.
3. In a further email dated 15 February 2019, UKAD requested clarification from you regarding the scope of the term 'BUCS university rugby'. By return email of the same date, you confirmed that your request pertained to 'samples collected at BUCS rugby competitions and from any rugby team affiliated or registered to BUCS'.

Summary of response

- UKAD is disclosing the number of samples collected at BUCS university rugby competitions and from any rugby team affiliated or registered to BUCS in the period 2014 to 2018. As per point (d) of your request, UKAD is also disclosing the number of Adverse Analytical Findings from samples collected during this period.
- UKAD is not disclosing the information requested in parts (a) to (c) of your request. The detail of the basis for this response is set out below.

Part 1 and part (d) of your request

- UKAD confirms that it holds the information requested and provides a response to your request via the table below.
- Please note that for the purpose of the figures in the below table, the meaning of a “test” is any successful attempt to test a single player. If multiple samples (blood and/or urine) are collected from a player in a single Sample Collection Session, this is counted as two successful tests. The figures below include tests conducted by UKAD on its own behalf and on behalf of other anti-doping organisations.

BUCS university rugby – samples collected from 2014 to 2018

	Number of tests	Adverse Analytical findings
2014	22	1
2015	16	0
2016	10	0
2017	32	0
2018	28	0
<u>Grand Total</u>	108	1

- Please note that UKAD publishes testing statistics every quarter. The data is broken down by National Governing Body (including the Rugby Football Union) and can be found here: <https://www.ukad.org.uk/anti-doping-rule-violations/quarterlyreports-on-testing-programme>

9. UKAD also publishes decisions taken in completed Anti-Doping Rule Violation (ADRV) cases on its website for the duration of the athlete's ban, here: <https://www.ukad.org.uk/anti-doping-rule-violations/current-violations/>
10. Historical ADRV cases can be found here: <https://www.ukad.org.uk/anti-dopingrule-violations/historical-sanctions/>

Parts a) to c) of your request

11. UKAD confirms that it holds the information requested. However, we are withholding this information under the exemption provided in section 31 of the Act on the grounds that releasing the information would be likely to prejudice the exercise by UKAD of its regulatory functions.

12. Section 31(1) provides as follows:

Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice –

(g) the exercise by any public authority of its functions for any of the purposes specified in subsection (2) ...

13. Section 31(2) provides:

The purposes referred to in subsection (1)(g) to (i) are—

(b) the purpose of ascertaining whether any person is responsible for any conduct which is improper...

14. One of UKAD's core functions is to identify and prosecute any athlete or other person who commits an ADRV contrary to the UK Anti-Doping Rules ('the Rules')¹. This function falls within section 31(2)(b) of the Act. UKAD uses its testing program to discover ADRVs.

15. It is UKAD's view that publishing testing data for individual clubs (whether in rugby or any other sports) for a specific time period would risk undermining the testing program. A similar risk arises from publishing the date and time when tests are conducted, and whether they occurred In-Competition or Out-Of-Competition².

¹ <https://www.ukad.org.uk/resources/document/uk-anti-doping-rules>

² As defined in the Appendix to the Rules

This is because a fundamental principle of drug testing is that it is conducted without advanced notice, and such information would indicate to a club and its players the likelihood of being tested at any given time.

16. More generally, it would give an insight into UKAD's testing strategy and may enable testing patterns to be identified, providing assistance to any athletes who may seek to cheat by attempting to evade testing or avoid the detection of ADRVs.
17. Having determined that disclosure would prejudice the identification of ADRVs, UKAD has considered the public interest arguments in favour of releasing the information. UKAD recognises the importance of transparency and accountability in general, and specifically in providing the public with more understanding of its anti-doping regime³.
18. Conversely, UKAD considers that the more important public interest lies in the maintenance of an effective anti-doping regime, so that UKAD can work towards its public policy objective of eliminating doping in sport. Disclosing the information requested would undermine the effectiveness of the testing program as it would be likely to reduce both its deterrent effect and its effectiveness in detecting prohibited substances.
19. UKAD has concluded that the public interest in knowing how many individuals from particular clubs have provided samples for drug testing during specific periods, the date and time at which such samples were taken, and whether tests were conducted In-Competition or Out-Of-Competition is outweighed by the public interest in ensuring the effectiveness of UKAD's testing program. UKAD therefore withholds this information under section 31 of the Act.
20. In coming to this view, UKAD has taken account of the fact that the public interest arguments in favour of disclosure, as discussed above, are sufficiently met by the level of detail that is being disclosed above in paragraphs 7 to 10.

Conclusion

21. 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 request (i.e. two

³ As referenced in paragraph 8 above, where a hyperlink is provided. UKAD does publish a significant amount of testing information.

months from the date of this letter) and should be addressed to: Matthew Johnson, Director of Legal and Regulatory Affairs, UK Anti-Doping, Fleetbank House, 2-6 Salisbury Square, London EC4Y 8AE. Please remember to quote the reference number above in any further communications.

22. 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



UK Anti-Doping