

Official

Ref: FOI-287

Sent via email only: [REDACTED]

13 October 2020

Dear [REDACTED]

1. Thank you for your email of 7 August 2020 in which you requested information from UK Anti-Doping ('UKAD') under the Freedom of Information Act 2000 ('the Act').
2. Specifically, your request was as follows:
  - "1. How many Premier League footballers returned 'adverse analytical findings' during the 2019/20 season.
  2. A breakdown of the banned substances which caused the 'adverse analytical findings'.
  3. How many Therapeutic Use Exemptions were granted to Premier League footballers during the 2019/20 season."
3. Please note that we have defined "Premier League footballer ... during the 2019/20 season" as a player registered with one of the twenty Premier League clubs between 9 August 2019 and 26 July 2020 inclusive.

#### Response to request part 1

4. Three Premier League footballers returned an adverse analytical finding ('AAF') during the 2019/20 season.
5. Pursuant to the 2019/2020 Anti-Doping Regulations (the 'ADR') of The Football Association ('The FA'), an AAF is the presence of a Prohibited Substance, or evidence of the use of a Prohibited Method, contained in the WADA Prohibited List (the 'Prohibited List').<sup>1</sup>
6. Please note, the detection of an AAF in a Sample does not automatically lead to an Anti-Doping Rule Violation ('ADRV') under the ADR for a number of reasons. For

<sup>1</sup> <http://www.thefa.com/-/media/files/thefaportal/governance-docs/anti-doping/anti-doping-regulations-2019-20.ashx>

example, a Player who returns an AAF may have a Therapeutic Use Exemption ('TUE') which permits him/her to use a Prohibited Substance or a Prohibited Method contained in the Prohibited List when such use or administration is necessary to address a legitimate medical requirement.<sup>2</sup> Alternatively, a Player may be able to show that a Prohibited Substance was ingested via a permitted route (as outlined in the Prohibited List).

7. Please also note, in both the 2019 and 2020 versions of the Prohibited List, certain substances are only prohibited 'In-Competition', which is defined in the ADR as being the period from midnight on the day of a match until the time on that match day that the Sample collection procedures have been completed. However, The FA also prohibits use of some of these substances Out-of-Competition under its Social Drugs Policy Regulations. Where those substances are found in samples provided Out-of-Competition they are not AAFs for the purposes of the ADR.

### Response to request part 2

|       | Substance                                     |
|-------|---|
| AAF 1 | Methylphenidate & metabolite (Ritalinic Acid) |
| AAF 2 | Methylprednisolone                            |
| AAF 3 | Not disclosed                                 |

8. Whilst UKAD holds the requested information relating to AAF 3, we are withholding this under section 31 of the Act, as releasing it would be likely to prejudice the exercise by UKAD of its regulatory functions.

### Section 31 – Law enforcement

9. Section 31(1) of the Act 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) ...*

<sup>2</sup> Further information the TUE system is available on the UKAD website [here](#).

10. Section 31(2) of the Act 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 ...*

11. One of UKAD's core functions is the investigation and prosecution of Anti-Doping Rule Violations ('ADRVs'). This function falls within section 31(1)(g) of the Act, as it is exercised for the purpose set out in section 31(2)(b) of the Act.
12. It is UKAD's view that disclosing the requested information relating to AAF 3 would be likely to prejudice this function. This is because AAF 3 is still subject to an investigation to determine whether any further action is required in respect of it, in accordance with the ADR. Releasing any information in respect of it at this stage may therefore prejudice that specific investigation.
13. Releasing the requested information relating to AAF 3 would also be likely to prejudice UKAD's investigation and prosecution function more generally. The ADR require that any investigation into a potential ADRV be conducted in accordance with strict requirements of confidentiality, so that all facts and information pertaining to a case remains confidential, save to the extent that they are ultimately included in any decision published at the end of the process .
14. If UKAD were to disclose information which remains relevant to any current investigation, this would undermine the confidentiality of that anti-doping process. To do so would jeopardise UKAD's relationship with the sporting community to such an extent that it would be likely to lead to a lack of co-operation by sports, teams or athletes in the testing programme and any subsequent investigations or prosecutions, if not a refusal to participate at all.
15. Having determined that disclosure of the information relating to AAF 3 would be likely to prejudice the effective investigation and prosecution of ADRVs, UKAD has considered the public interest arguments in favour of disclosure. UKAD recognises the importance of transparency and accountability in general, and specifically in providing the public with more understanding of how it investigates potential ADRVs.
16. However, UKAD considers that the more important public interest lies in the maintenance of an effective investigation and prosecution process, so that UKAD can work towards its public policy objective of eliminating doping in sport. Disclosing

the information requested in relation to AAF 3 would be likely to harm those processes.

### **Response to request part 3**

17. UKAD granted eight Therapeutic Use Exemptions ('TUEs') to Premier League footballers in the 2019/20 season.
18. Please note, UKAD is not responsible for the TUE programme for all Premier League footballers. For example, our records show that UEFA granted five TUEs to Premier League footballers in the 2019/20 season.
19. This information covers TUEs granted between 9 August 2019 and 26 July 2020 inclusive.

### **Conclusion**

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20. 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 this response and should be addressed: 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.
21. 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**