

**Ref: FOI-374**

19 December 2023

[REDACTED]

Sent via email only: [REDACTED]

Dear [REDACTED]

1. Thank you for your email of 16 April 2023 in which you requested information from UK Anti-Doping ('UKAD') under the Freedom of Information Act 2000 ('the Act').

Your request was as follows:

*"I'm submitting a freedom of information request for the following information:*

*How many boxers (British Boxing Board of Control licence holders) in the past two years have provided adverse analytical findings in tests carried out by UKAD?*

*Of those who did, how many have faced sanctions and how many have not following National Anti-Doping Panel hearings?*

*What were the reasons for the boxers to be cleared/not face sanctions despite AAF?*

[Collectively dealt with as Part 1 of your request – see below]

*How many boxers are currently serving suspensions that have not been made public?"*

[Dealt with as Part 2 of your request – see below]

2. UKAD subsequently asked you to clarify your request as follows:

1. *How many boxers (British Boxing Board of Control licence holders) in the past two years have provided adverse analytical findings in tests carried out by UKAD?*

*Of those who did, how many have faced sanctions and how many have not following National Anti-Doping Panel hearings?*

Please can you clarify the second part of the above request.

Do you mean, of those British Boxing Board of Control licence holders that have returned Adverse Analytical Findings in the past two years, how many of those boxers have gone before the National Anti-Doping Panel for a hearing? Thereafter, are you asking for a numerical breakdown of those who have received a Period of Ineligibility (more commonly referred to as a 'ban'), and those who have not received a Period of Ineligibility?

Please note the information you may be seeking, may already be in the public domain and accessible via the sanctions page on UKAD's website available [here](#). This page can be searched and filtered by way of governing body, and covers both current and historical sanctions.

2. *What were the reasons for the boxers to be cleared/not face sanctions despite AAF?*

Please can you clarify what you mean by 'cleared'? Do you mean, what were the National Anti-Doping Panel's reasons for not imposing a Period of Ineligibility?

3. *How many boxers are currently serving suspensions that have not been made public?*

Please can you clarify what you mean by 'suspensions'?

3. You responded to UKAD's request for clarification as follows:

*“1) How many British Boxing Board of Control licence holders have had adverse analytical findings in the last two years?*

*And yes I am asking for a numerical breakdown of those who have received a Period of Ineligibility (more commonly referred to as a ‘ban’), and those who have not received a Period of Ineligibility?*

*2) Yes I mean, what were the National Anti-Doping Panel’s reasons for not imposing a Period of Ineligibility on those who have provided adverse analytical findings?*

*3) I mean how many British Boxing Board of Control boxers are currently serving provisional suspensions as they await their case for providing an adverse analytical finding to be heard?”*

## **Response – Part 1**

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4. UKAD holds information in respect of Part 1 of your request and responds as follows:
  - a. Seven (7) professional boxers licensed by the British Board of Boxing Control (‘BBBoC’) have returned Adverse Analytical Findings (‘AAFs’) in respect of tests carried out by UKAD between 16 April 2021 and 16 April 2023 (*‘the past two years’*).
  - b. Of those seven (7) boxers that have returned AAFs, two (2) have appeared before the National Anti-Doping Panel (‘NADP’). Both boxers were found to have committed Anti-Doping Rule Violations (‘ADRVs’) and received a period of Ineligibility (i.e. a ban) from the NADP. Please note there may be AAFs within *‘the past two years’* that have not yet been referred to the NADP, but may be in the future.
  - c. It is also worth underlining in the context of your request that there may be various reasons why the detection of an AAF in a Sample does not lead to the matter being referred to the NADP for determination:
    - i. Firstly, UKAD, as the National Anti-Doping Organisation (‘NADO’) for the UK, can reach a ‘case resolution without a hearing’ under Article 7.12 of the UK Anti-Doping Rules, notably

through the issuing of a decision which confirms a period of Ineligibility.

- ii. There may be a NADO other than UKAD that is responsible (or takes responsibility) for the Results Management of the AAF and that NADO may reach a case resolution without a hearing or refer the matter to its own independent arbitral panel (which is not the NADP) for determination.
- iii. Please also note that there may be various reasons why the detection of an AAF in a Sample does not automatically lead to an ADRV and/or referral to the NADP for determination. For example, a boxer who returns an AAF may have a Therapeutic Use Exemption ('TUE') which permits them to use a Prohibited Substance or Prohibited Method contained in the Prohibited List when such use or administration is necessary to address a legitimate medical requirement<sup>1</sup>. Alternatively, a boxer may be able to show that a Prohibited Substance was ingested via a permitted route (as outlined in the Prohibited List) or that it was derived from the ingestion of a substance that is itself permitted (for example, morphine derived from the ingestion of codeine). The application of relevant Technical Documents and Technical Letters issued by the World Anti-Doping Agency ('WADA') may also mean that an AAF in a Sample does not necessarily lead to an ADRV and/or referral to the NADP for determination.

## Response – Part 2

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5. UKAD holds information at Part 2 of your request. However, we are withholding this information pursuant to section 31 of the Act. This is on the basis that disclosure of this information would be likely to prejudice the exercise by UKAD of its regulatory function.
6. Section 31(1) of the Act provides as follows:

### **Section 31 Law enforcement**

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<sup>1</sup> Further information about the TUE system is available on the UKAD website [here](#).

*(1) 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),*

...

*(2) 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 ...*

7. The primary purpose of the anti-doping process is the elimination of doping in sport through the detection and prevention of ADRVs. UKAD identifies ADRVs in several ways, including through the testing of Athletes, subsequent analysis of any Samples collected from them for substances contained in the WADA Prohibited List and the confirmation of any arising AAF by the relevant WADA-accredited laboratory. Where an Athlete returns an AAF that gives rise to the alleged commission of an ADRV, UKAD commences ADRV proceedings, which may also involve the imposition of a Provisional Suspension under Article 7.10 of the UK Anti-Doping Rules. UKAD's commencement of ADRV proceedings, and imposition of Provisional Suspensions are therefore fundamental to the pursuit of ADRVs and core to UKAD's function. They fall squarely within section 31(2)(b) of the Act.
  
8. UKAD acts in accordance with the strict confidentiality provisions contained within the UK Anti-Doping Rules and is not permitted to comment publicly on the specific facts of a pending case except as provided for by those Rules. Confidentiality is therefore a fundamental characteristic of all anti-doping proceedings conducted by UKAD. Whilst Article 7.10.7 of the UK Anti-Doping Rules permits UKAD to publicly disclose a Provisional Suspension, UKAD will only do so in "*exceptional circumstances*"<sup>2</sup>, where there are compelling reasons for public disclosure. Therefore, otherwise disclosing the number of BBBoC licensed boxers provisionally suspended awaiting their case to be determined as at the date of your request would undermine the general confidentiality of

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<sup>2</sup> See UKAD's statement here: <https://www.ukad.org.uk/news/ukad-announces-results-public-consultation-publication-charges-and-provisional-suspensions>.

the anti-doping process and would prejudice UKAD's ability to properly discharge its functions.

9. Having determined that section 31 of the Act applies to this information, UKAD has considered the public interest arguments in favour of disclosure of the data. UKAD recognises the importance of transparency and accountability in general, in terms of the public confidence that this inspires and, specifically, in providing the public with more understanding of its anti-doping programme<sup>3</sup> and the determination of subsequent ADRVs<sup>4</sup>.
10. Conversely, UKAD considers that there is an inherent public interest in a public body maintaining confidentiality in respect of the anti-doping process explained above. UKAD considers the more important public interest lies in the maintenance of an effective anti-doping programme and process to determine ADRVs, so that UKAD can work towards its public policy objective of eliminating doping in sport. Disclosing the specific information requested would undermine the effectiveness of UKAD's ADRV processes, in that (amongst other things) it could negatively impact the progression of those cases through to determination. Disclosure is likely to also lead to public misunderstanding of the ADRV process, because UKAD would not be permitted to comment on the specific facts of the case, beyond the disclosure of the Provisional Suspension itself.
11. UKAD further notes that disclosure of the information would not in and of itself increase the transparency of the ADRV processes that follow, but would undermine the policy position it has reached following extensive public consultation. UKAD conducted a public consultation in 2021 to specifically explore the question of whether it should change its policy on the public disclosure of Provisional Suspensions (and/or charges relating to ADRVs)<sup>5</sup>. That consultation, which was completed over 200 times by stakeholders across sport, concluded with 63.55% (211 respondents) stating that they would not support UKAD disclosing Provisional Suspensions<sup>6</sup>. Consequently, UKAD's

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<sup>3</sup> Please note that UKAD publishes testing statistics every quarter. The data is broken down by national governing body and can be found here: <https://www.ukad.org.uk/quarterly-reports-ukads-testing-programme>.

<sup>4</sup> Please note that UKAD publishes information regarding ADRV sanctions here: <https://www.ukad.org.uk/sanctions>.

<sup>5</sup> <https://www.ukad.org.uk/news/ukad-announces-results-public-consultation-publication-charges-and-provisional-suspensions>.

<sup>6</sup> See response to question 7 here: <https://www.ukad.org.uk/sites/default/files/2021-02/UKAD%20NoC%20Consultation%20Responses.pdf>.

policy is to not publish details of Provisional Suspensions unless there are exceptional circumstances.

12. UKAD has therefore concluded that the public interest in disclosing the data requested is outweighed by the public interest in ensuring the effectiveness of UKAD's anti-doping programme and processes to determine ADRVs. UKAD therefore withholds this information under section 31 of the Act.

## Conclusion

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13. 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 via email to: [foi@ukad.org.uk](mailto:foi@ukad.org.uk). Please remember to quote the reference number above in any future communications.

14. If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commission 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**