

03 July 2023

[REDACTED]

By email: [REDACTED]

Dear [REDACTED]

FOI request (FOI-373) – 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 \(UK ADR\)](#). 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 for your email of 8 June 2023 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. I calculate that this takes us to 6 July 2023.

I note that on 9 April 2023 you asked for some further information relating to your earlier request which had been allocated the reference FOI-369. There were three requests within FOI-373 and your appeal relates to only the first of those. Specifically, you requested:

A summary of the decision in the cases involving Athlete 1 and 4 in the attached table (the two athletics cases from 2017 and 2019). In the summary of the decision, please can UKAD detail the actions of the athlete/person that led to them being charged with

an ADRV. For example, in the decision 2016 UKAD vs Luke Graham it states that Graham, like 'Athlete Number 1', was charged with "Attempted use of a prohibited substance". It is explained that Graham was charged with this offence because he imported anabolic agents, including testosterone, nandrolone and trenbolone.

Please can the summary also detail the defences of the athlete/person and the reason why the athletes were cleared of the ADRV.

Please can UKAD also provide the names of the arbitrators of the NADP in both cases. I trust these names can be provided just as they were in many UKAD cases such as UKAD vs Ellis Richards (<https://www.ukad.org.uk/sites/default/files/2021-05/UKAD%20v%20Richards%20-%20First%20Instance%20Decision.pdf>).

*As you noted in your request for an internal review the UK ADR state at paragraph 8.5.2: **Where the hearing panel has determined that an Anti-Doping Rule Violation has not been committed, the decision shall not be Publicly Disclosed unless the Athlete or other Person consents to such disclosure. Where the Athlete or other Person does not so consent, a summary of the decision may be published, provided that what is disclosed does not enable the public to identify the Athlete or other Person.***

*The World Anti-Doping Code (the Code), with which UKAD is required to comply, states at article 14.3.2:..... **the Anti-Doping Organization responsible for Results Management must Publicly Disclose the disposition of the anti-doping matter including the sport, the antidoping rule violated, the name of the Athlete or other Person committing the violation, the Prohibited Substance or Prohibited Method involved (if any) and the Consequences imposed. The same Anti-Doping Organization must also Publicly Disclose within twenty (20) days the results of appellate decisions concerning antidoping rule violations, including the information described above.***

*The Code goes on to state at article 14.3.4: **In any case where it is determined, after a hearing or appeal, that the Athlete or other Person did not commit an anti-doping rule violation, the fact that the decision has been appealed may be Publicly Disclosed. However, the decision itself and the underlying facts may not be Publicly Disclosed except with the consent of the Athlete or other Person who is the subject of the decision. The Anti-Doping Organization with Results Management responsibility shall use reasonable efforts to obtain such consent, and if consent is obtained, shall Publicly Disclose the decision in its entirety or in such redacted form as the Athlete or other Person may approve.***

The Code does not provide for the issue summaries of the decisions. The UK ADR at Article 8.5.2 allow UKAD to either (i) publish the decision with the athlete's consent or (ii) produce and publish a summary of the decision with the athlete's consent. As a matter of policy UKAD does not exercise its right to publish in either of these circumstances. UKAD publishes in accordance with the mandatory requirements set out at Article 8.5.1. To comply with your request for a summary would require UKAD to create new information that does not currently exist. The FOIA does not require UKAD to do this.

The UK ADR do not contemplate UKAD providing redacted decisions for acquittals. UKAD publishes in accordance with the UK ADR and I consider that to publish outside the scope of the UK ADR would be acting contrary to UKAD's public function and would undermine public trust in its processes.

Notwithstanding the position above, I note that the decision in the case involving athlete 4 in the attached table was appealed by UKAD. The appeal was heard by the National Anti-doping Panel (NADP) and UKAD was successful in its appeal. This matter concerned Mark Dry and remains on the Sport Resolutions where you can find the details (https://www.sportresolutions.com/assets/documents/200225_-_UKAD_v_Dry_-_Appeal_Tribunal_Decision.pdf).

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') and not provide summaries or redacted decisions is reasonable. Given that the information in respect of athlete 4 remains in the public domain, I consider it is appropriate to direct you to that information.

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

Yours sincerely



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Chief Operating Officer

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Athlete Number	Year	Sport	Type of Violation	Substance	First Instance Decision	Appeal Decision
1	2017	Athletics	Attempted Use of a Prohibited Substance	-	Yes	-
2	2019	Weightlifting	Evading, refusing or failing to submit to Sample collection	-	Yes	-
3	2019	Rugby Union	1. Possession of a Prohibited Substance 2. Use or Attempted Use of a Prohibited Substance	-	Yes	-
4	2019	Athletics	Tampering or Attempted Tampering with any part of Doping Control	-	Yes	-
5	2020	Welsh Rugby Union	Evading Sample collection	-	Yes	-
6	2020	Welsh Rugby Union	1. Refusing or failing to submit to Sample collection 2. Tampering with any part of Doping Control	-	Yes	-
7	2021	Rugby League	Presence of a Prohibited Substance or its Metabolites or Markers	oxandrolone metabolite	Yes	-
8	2022	Rugby League	Evading Sample collection	-	Yes	-