

Sent via email only: [REDACTED]

Ref: FOI-459

03 March 2025

Dear [REDACTED]

1. Thank you for your email of 27 November 2024, in which you requested information from UK Anti-Doping ('UKAD') under the Freedom of Information Act 2000 ('the Act'). Specifically, your request was as follows:

I would like to request data on the total number of TUEs applied for and the total number granted for which UKAD has records, across all sports from 2019-2024 (inclusive). I would like this for each individual year.

Please could I also have a sport-by-sport breakdown for each year.

2. By email dated 28 November 2024, you clarified your request for a 'sport-by-sport breakdown' as follows:

Further to this, if it is not possible to provide a comprehensive sport-by-sport breakdown, please provide the number for the top five, or, if absolutely necessary, top three most prevalent sports for each individual year.

Summary of Response

3. UKAD confirms that it holds information relevant to your request, which is disclosed in the Annex to this response and subject to the clarifications explained therein.
4. UKAD also holds the requested breakdown by sport. Whilst that information is being withheld from disclosure pursuant to section 40 of the Act (as more particularly explained below), UKAD is prepared to disclose an aggregate of the 'top 4' sports across the period 2019 to 2024 (inclusive) from which the most Therapeutic Use Exemption ('TUE') applications submitted to UKAD were approved.

Response

5. UKAD confirms that it holds TUE data for five (5) years and therefore information relevant to your request, specifically the total number of TUE applications submitted

to UKAD and the total number of TUE applications approved by UKAD between 2019 to 2024, inclusive.

6. This data is disclosed in Annex to this response.

Sport-by-Sport Breakdown

7. Section 40(2) of the Act states:

Any information... is also exempt information if—

- a) it constitutes personal data which does not fall within subsection (1) [personal data of which the applicant is the data subject], and*
- b) the first, second or third condition below is satisfied.*

8. Section 40(3A)(a) of the Act states:

The first condition is that the disclosure of the information to a member of the public otherwise than under this Act –

(a) would contravene any of the data protection principles,...

9. UKAD has concluded that, in view of the number of TUE applications received in certain sports (which have very small pools of Athletes who are included in the National TUE Pool criteria and therefore required to apply for a TUE), there is a genuine risk that disclosure of the information requested on a sport-by-sport basis may identify (or alternatively, lead to the erroneous identification of) an individual submitting a TUE application. This would mean that any information relating to such an application would constitute “*personal data*” as defined in Section 3(2) of the Data Protection Act 2018 (‘DPA’) and Article 4(1) of the General Data Protection Regulation (EU) 2016/679 (‘UK GDPR’). This is because it would be information relating to an identified living individual.
10. Having determined that the information you have requested is personal data, UKAD has gone on to consider whether disclosure would contravene any of the data protection principles as set out in Chapter 2, Article 5(1)(a) of the UK GDPR. The first data protection principle states that personal data shall be processed transparently, fairly, and lawfully.
11. The lawful basis on which UKAD processes personal data is contained in Chapter 2, Article 6(1)(e) of the UK GDPR and section 8 of the DPA, being that it is necessary for the performance of a task carried out in the public interest (i.e., eliminating doping in sport). However, as set out in the Information Commissioner’s

(‘ICO’) Guidance Note on section 40 of the Act,¹ UKAD’s lawful processing of personal data for this purpose does not extend to disclosure to the general public under the Act.

12. Accordingly, UKAD may only lawfully disclose the information you have requested on a different basis. The only two bases that may apply are consent (being consent to disclose that information under the Act) or if disclosure would be necessary for the purpose of a legitimate interest. Athletes applying for a TUE have an expectation that their application and the details associated with it will remain confidential. Therefore, UKAD may only lawfully disclose this information to you if it is necessary for the purpose of a legitimate interest. To establish this lawful basis, all three of the following criteria must be met:
 - i. The purpose of disclosure is a legitimate interest;
 - ii. Disclosure must be necessary for that purpose; and
 - iii. The legitimate interest outweighs the interests and rights of the individual.
13. UKAD acknowledges the legitimate public interest in transparency and accountability regarding anti-doping matters. However, it is UKAD’s view that disclosing the information you have requested would not be necessary to achieve that purpose. UKAD is also of the view that even if such disclosure was necessary, it would not outweigh an individual Athlete’s right to privacy when applying for a TUE. Therefore, UKAD does not have a lawful basis to disclose this information to you and we are withholding the information requested under the exemption in section 40 of the Act.
14. For completeness, UKAD’s position is that, to the extent such disclosure may constitute processing of special category data, it also does not consider any of the relevant conditions (per Article 9 UK GDPR) to the prohibition generally on processing such data apply here. UKAD has a specific ‘anti-doping derogation’ for processing special category data in connection with its public purposes (paragraph 27, Schedule 1, Part 2 of DPA). In UKAD’s view, the derogation does not extend to the type of processing which might be required in responding to your specific request.
15. However, UKAD is disclosing an aggregate of the ‘top 4’ sports across the period 2019 to 2024 (inclusive) from which the most TUE applications submitted to UKAD were approved.

¹ Available [here](#).

16. Across the period 2019 to 2024 (inclusive), the 'top 4' sports from which the most TUE applications submitted to UKAD were approved were (in numerical order):
1. Football
 2. Rugby Union
 - = 3. Cricket
 - = 3. Rugby League
17. UKAD is not disclosing the 'top 4' sports for each year (across the period 2019 to 2024 (inclusive)) from which the most TUE applications were approved. The reason for this is because in one or more years a 'smaller' sport (which therefore has a smaller TUE Pool) may fall within the 'top 4'. This would engage s.40 of the Act for the same reasons as set out at paragraph 9 above (i.e. there is a genuine risk that disclosure of the information requested on a year-by-year basis may identify (or alternatively, lead to the erroneous identification of) an individual making a TUE application).

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 this response and should be addressed via email to foi@ukad.org.uk. 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



UK Anti-Doping

Response to FOI-459 | Annex

TUE applications submitted to UKAD between 2019 to 2024, inclusive

Year	Total Submitted [^]	Total Approved
2019	196	89
2020	122	74
2021	158	84
2022	239	113
2023	261	144
2024	261	124

[^] Submitted applications include 'Reviewed', 'Non-Reviewed', 'International', and 'Fairness' applications (see definitions section below for a description of the different application types).

NB. To avoid double counting of the data, the count of total applications submitted within this table excludes appeal applications submitted after the original request for a TUE was rejected. In these instances, the application is counted by its final outcome only.

NB. TUEs that were granted, but subsequently cancelled or withdrawn due to the Athlete retiring from sport, the Athlete ceasing treatment, or the Athlete failing to fulfil the conditions under which their TUE was granted, are counted in this table as approved rather than their final outcome.

NB. Pending applications that were submitted in 2024 but were not concluded by 31/12/2024 have been excluded – these applications will be included in the 2025 count.

Considerations

- For the purposes of the TUE data included in the table above, an approved TUE is an application which fulfils the conditions for granting a TUE as outlined in the International Standard for TUEs ('ISTUE') in force at the time of considering the application. In order for a TUE to be approved, the UKAD TUE Committee must be unanimous in their decision that the application fulfils these conditions.
- The data in the table above does not include information on TUE applications submitted by International-Level Athletes to their International Federation. Each International Federation defines which Athletes they consider to be International Level. This typically includes Athletes either selected to be within the International Federation's Registered Testing Pool and/or competing at an international event.
- The timing of when an Athlete needs to apply for a TUE and who they need to apply to is based on their sport and competition level. Only Athletes in the [National TUE Pool](#) are required to apply for and obtain a TUE with UKAD in advance of starting treatment with a prohibited medication or method (unless exceptional circumstances apply). Athletes who are not included within the National TUE Pool nor are defined as being an International-Level Athlete do not need to obtain a TUE in advance of starting treatment but instead are required to apply for a retroactive TUE if they are subject to Doping Control. As a result, the dataset on TUE approvals may only be representative of Athletes included within the National TUE Pool. Prospective TUE applications submitted by Athletes who are not included within the National TUE Pool for their respective sport are not processed by UKAD.
- TUEs are granted for specific time periods (e.g. one-off, seven days, three months, six months, one year, two years, etc). This means that some TUEs may need renewing on more than one occasion during a year or each year depending on the timing of when the TUE was granted and duration of approval. As a result, the dataset may count the same Athlete on more than one occasion within a given year or over multiple years for the same diagnosed medical condition.

Definitions

TUE Application – Reviewed

An application which is sent to the UKAD TUE Committee for review following an initial assessment by UKAD which identified that the Athlete is required to obtain a TUE.

TUE Application – Non-Reviewed

An application which following an initial assessment does not require processing further due to one of the following reasons: i. the medication is permitted at all times; ii. the medication is permitted at the prescribed dose; iii. the medication is prohibited in-competition only and the Athlete is not competing whilst using the medication (or during a defined washout period); or iv. the Athlete is competing at a level whereby they are not required to obtain a TUE in advance but are instead required to submit a retroactive TUE application following Doping Control.

TUE Application – International

An application which is incorrectly submitted to UKAD by an Athlete that is international level requiring their respective International Federation to consider the request.

TUE Application – Fairness

An application which is sent onto the UKAD TUE Fairness Review Panel for review following an initial assessment by UKAD that has concluded that the application does not satisfy either (or both) of the criteria set out in Articles 4.1 and 4.2 of the ISTUE.