

Ref: FOI-458

Sent via email only:

28 November 2024

1. Thank you for your email of 31 October 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 write to the UKAD to make a revised 'open government request' in relation to any UK female based track and field running and/or hurdling athlete(s) 'alleged or accused' of having used banned drugs between 1st January 2006 to 31st December 2010.

Without naming any individual, how many such UK female athletes were investigated, interviewed and/or banned from representing the UK in the Beijing Olympics during the summer of 2008 and also who may then have been sanctioned between the summer of 2008 and 31st December 2010 for any such abuse.

It is understood that UK Sport had responsibility for the management of the UK's national anti-doping programme via its Drug Free Sport Directorate before December 2009 when UKAD became the UK's stand-alone National Anti-Doping Organisation ('NADO') assuming responsibility for anti-doping within the UK from UK Sport. Hence, any actions by UK Sport are anticipated to be available to UKAD.

2. Your email of 31 October 2024 followed UKAD's response to your previous request (reference: FOI-449), which is enclosed for reference.

Summary of Response

3. UKAD neither confirms nor denies that it holds the information requested. The detail of the basis for this response is set out below.
4. Please note that this "neither confirm nor deny" response to your request should not be taken as an indication that the information requested is or is not held by UKAD.

5. Please also note that the approach taken to the application of the relevant exemption below should not be taken as in any way indicative of the position of the class of athletes in your request. It is simply an application of the relevant test in the context of the wider framework, rules, and procedures applicable to UKAD as an organisation subject to the Act.

The anti-doping process under the UK Anti-Doping Rules

6. We set out below UKAD's response to your request for information. To contextualise UKAD's response, we explain briefly here the anti-doping process that applies under the UK Anti-Doping Rules ('the ADR'), which are available [here](#)¹.
7. We note your understanding that UK Sport previously had responsibility for the management of the UK's national anti-doping programme via its Drug Free Sport Directorate (until the creation of UKAD in December 2009). Whilst UK Sport's responsibilities for anti-doping stemmed from a different version of the World Anti-Doping Code ('the Code') and under the applicable anti-doping rules at the time (rather than the current version of the ADR), the key provisions and processes at that time were broadly similar to those under the current version of the Code and the ADR that apply to UKAD.
8. The primary purpose of the anti-doping process is the elimination of doping in sport through the prevention or detection and prosecution of Anti-Doping Rule Violations ('ADRVs'). ADRVs are identified in several ways, including the testing of athletes for substances contained in the World Anti-Doping Agency ('WADA') Prohibited List. All stages of the anti-doping process are confidential, subject to paragraph 10 below.
9. The question as to how many athletes within a specific sport, and during a specific period, were investigated for a potential ADRV is confidential. Should an investigation lead to a charge being issued, the prosecution will proceed on a private and confidential basis. This includes any correspondence between UKAD and the athlete, or any subsequent hearing before the tribunal that deals with such cases, such as the UK National Anti-Doping Panel ('the NADP').
10. At the end of the ADRV prosecution process information can be published by UKAD, pursuant to Articles 8.4 and 13.8 of the ADR, as follows. Once a case has concluded (i.e., there is no further right of appeal), and it has been determined by

¹ <https://www.ukad.org.uk/sites/default/files/2020-11/2021%20UK%20Anti-Doping%20Rules%20v1.0%20FINAL.pdf>

UKAD (via an Issued Decision) or by a hearing panel of the NADP that an ADRV has been committed, UKAD is required by those Articles to publicly report the relevant decision in specific circumstances. Information about current and historic ADRVs can be found on the UKAD website [here](https://www.ukad.org.uk/sanctions)².

Response

11. UKAD neither confirms nor denies that it holds the information requested. In doing so, UKAD relies on the exemption in section 31 of the Act.

Section 31 – Law enforcement

12. Section 31 of the Act provides as follows:

Section 31 Law enforcement

(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,

13. Section 31(3) of the Act further provides:

(3) The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would, or would be likely to, prejudice any of the matters mentioned in subsection (1).

14. UKAD refuses to confirm or deny whether it holds the information requested as to do so would prejudice UKAD's (and/or any other relevant organisation's) ability to exercise its functions for the purpose of ascertaining whether any person is responsible for any conduct which is improper, which in this context means committing an ADRV contrary to the ADR (and/or any other applicable anti-doping rules at the relevant times). This purpose comes within section 31(2)(b) of the Act.

² <https://www.ukad.org.uk/sanctions>

15. UKAD's position is that any disclosure, including confirmation as to the presence or otherwise of such information, would undermine the integrity and effectiveness of (its) regulatory functions and so prejudice the ability to ascertain whether any person is responsible for committing an ADRV.
16. For similar reasons, UKAD considers that the public interest lies in not confirming or denying whether we hold the information responsive to your request. UKAD of course recognises the importance of transparency and accountability in general and specifically in providing the public with more understanding of its responsibilities.
17. However, to do otherwise in response to your request would, in our view, genuinely risk undermining UKAD's regulatory function across sport, including its responsibility to comply with the ADR (or other applicable anti-doping rules), and ensure anti-doping matters are handled confidentially until such time that they can be publicly disclosed in accordance with the ADR. There is an important public interest in the maintenance of an effective anti-doping regime – so that UKAD can work towards its public policy objective of eliminating doping in sport.

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

A handwritten signature in blue ink that reads "UK Anti-Doping".

UK Anti-Doping