

Mr [REDACTED]

By e-mail to: [REDACTED]

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Official

Ref: FOI-170

Dear Mr [REDACTED]

### Your request for information

Thank you for your email of 5 December 2017, in which you requested information from UK Anti-Doping ('UKAD') under the Freedom of Information Act 2000 ('the Act'). Your request was as follows:

[REDACTED]

*I have had a look through the resources page, and was wondering if you would be able to give me a list of all the offenders over the last 10/15 years."*

UKAD has interpreted your request for information to be for a list of the names of all Athletes or other persons in the sport of boxing who have committed an anti-doping rule violation ('ADRV') since December 2002.

### Summary of UKAD's response to your request

UKAD can confirm that it holds the names of all Athletes and other persons in the sport of boxing who have committed an ADRV since the time of its inception in December 2009, and the names of some of those who committed an ADRV prior to its inception. UKAD cannot confirm whether it holds *all* of the relevant names for the period prior to December 2009 as this information was inherited from another body and so may not be complete.

UKAD is able to provide you with the following information in respect of the relevant names:

1. The name of any person currently serving a period of suspension ('a ban') due to the commission of an ADRV is publicly available on UKAD's website as detailed further below. As this information is already reasonably accessible to you it is exempt from disclosure pursuant to Section 21 of the Act; and
2. The name of any person who was subject to a ban due to the commission of an ADRV, but whose ban has now expired (these cases are referred to as "historical sanctions" cases), is not publicly available and is exempt from disclosure pursuant to section 40 of the Act, as the information requested is personal data protected by the Data Protection Act 1998 ('DPA') and disclosing it would breach the first data protection principle.

However, details, including the sport, of historical sanctions cases where a ban was imposed post-December 2009 are available on UKAD's website, in anonymised form, as detailed further below.

Details of historical sanctions cases where a ban was imposed prior to December 2009 are not available on UKAD's website.

### **How the DPA applies to current cases**

UKAD publishes the details of all Athletes or other persons who are currently serving a ban on its website: <https://www.ukad.org.uk/anti-doping-rule-violations/current-violations/>. This information includes the name of the Athlete or other person.

The DPA defines "personal data" as '*data which relate to a living individual who can be identified (a) from those data...*'. Plainly a person's name is within this definition, and such data can only be processed by UKAD in accordance with one of the conditions set out in Schedule 2 of the DPA.

The relevant condition in Schedule 2 of the DPA which, if satisfied, may allow for the processing of such personal data by UKAD, is contained in section 5(d) as follows: "the processing is necessary for the exercise of any other functions of a public nature exercised in the public interest by any person".

UKAD's functions for these purposes are derived from the UK National Anti-Doping Policy and the World Anti-Doping Code ('the Code'). Specifically, when an Athlete commits an ADRV, Article 14 of the Code places a specific obligation on UKAD to publish information relating to the ADRV, including the sport, the anti-doping rule violated, the name of the person committing the violation, the Prohibited Substance involved and the ban imposed. This information must be published for the longer of one month or the length of the ban. This requirement is further reflected in Article 8.4 of the UK Anti-Doping Rules ('ADR'). Therefore, whilst an Athlete or other person is serving a ban for an ADRV, UKAD is able to process their personal data because it is able to satisfy a condition in Schedule 2 (namely, section 5(d)) by virtue of its obligations under Article 14 of the Code and Article 8.4 of the ADR).

### **How the DPA applies to historical sanctions cases**

UKAD also publishes the details of all historical sanctions that have been served by any Athlete or other person on its website: <https://www.ukad.org.uk/anti-doping-rule-violations/historical-sanctions/>. However, historical sanctions are anonymised because once a person's ban has expired it is no longer necessary for UKAD to publish ADRV information pursuant to Article 14 of the Code and Article 8.4 of the ADR. It follows that UKAD is then unable to satisfy the relevant condition set out in section 5(d) of Schedule 2 of the DPA and therefore is not permitted to process that person's personal data. UKAD is also of the view that publishing the personal data of an Athlete or other person once their ban has expired would be unfair for the purposes of the Act. UKAD therefore does not publish the personal data of any persons after their ban has expired.

### **The application of the Section 40 exemption under the Act**

Section 40 of the Act applies to personal data:

**(40) Personal Information**

- (2) Any information to which a request for information relates is also exempt if –
- a. It constitutes personal data which do not fall within subsection (1), and
  - b. Either the first or second condition below is satisfied.

(3) *The first condition is –*

- a. *In a case where the information falls within any of paragraphs (a) to (d) of the definition of “data” in section 1(1) of the Data Protection Act 1998, that the disclosure of the information to a member of the public otherwise than under this Act would contravene –*
  - i. *any of the data protection principles*

This means that if disclosure of the information would contravene any of the data protection principles, then the information is considered exempt from disclosure under the Act.

Schedule 1 of the DPA sets out the data protection principles. The relevant principle in this instance is the first data protection principle, which provides as follows:

- (1) *Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless –*
  - a. *At least one of the conditions in Schedule 2 is met*

In UKAD's view, disclosing the names of those persons who have committed an ADRV but completed their ban would not be fair. This is because UKAD's duty to report the names of those who have committed ADRVs extends to current bans only.

Having concluded that disclosure would not be fair, the information is exempt from disclosure pursuant to Section 40 of the Act. UKAD is also of the view that none of the conditions in Schedule 2 can be met in this instance. In particular, as discussed above, UKAD is unable to satisfy the condition in section 5 of Schedule 2 of the DPA after a person's ban has expired. UKAD is therefore unable to disclose the names of persons whose bans have expired as to do so would breach the first data protection principle. Such information is therefore exempt from disclosure pursuant to Section 40(2)(b) because the condition set out in Section 40(3)(a)(i) of the Act is satisfied.

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 original letter and should be addressed to: Philip Bunt, Director of Business Services, UK Anti-Doping, Fleetbank House, 2-6 Salisbury Square, London EC4Y 8AE. Please remember to quote the reference number above in any further communications.

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, Wycliff House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Yours sincerely



UK Anti-Doping