

[REDACTED]

Official

Sent via email only: [REDACTED]

Ref: FOI-297

08 June 2021

Dear [REDACTED]

1. We write in relation to your request for information under the Freedom of Information Act 2000 (the 'Act'), reference FOI-297.

### Request for Information

---

2. In a letter dated 10 January 2021, you requested the following information from UKAD:

- "1. Why did WADA consider that the needed to be increased protection for Athletes anti-doping education?"*
- 2. Why did WADA consider that Recreational Athletes needed to be treated differently in terms of the sanction process, when compared International Level or National Level Athlete?"*
- 3. Please provide any evidence and or consultation papers that provide full disclosure of why WAD considered the changes where necessary?"*
- 4. The changes to the WADA CODE did not happen overnight. Bearing in mind the representations we have made since the first days of March, along with Adam Carr's case in principle, what date did UKAD know about the proposed changes to the WADA CODE and who from UKAD was involved in the WADA discussions?"*
- 5. What date did UKAD know that the Athletes' Anti-Doping Rights Act would provide increased protections for Athletes regarding anti-doping education, over and above those already set within the CODE?"*
- 6. Adam Carr is and was a Recreational Athlete for the purposes of the ADR's up to December 31<sup>st</sup> 2020. Why was he not afforded the courtesy, respect and understanding to be treated by UKAD in such a way throughout the sanction process?"*
- 7. Given that the ADRV started/occurred in October/November 2019, why was a conscious decision taken that Adam Carr was not to be considered to be a Recreational Athlete, when he should have been?"*

8. *Who at UKAD made that decision?*

**Response to parts 1, 2 and 3 of your request**

---

3. In December 2017, WADA initiated a two-year, three phase, review process of the World Anti-Doping Code (the 'Code') and International Standards. This continued until (and including) the 2021 Code and 2021 International Standards were formally approved by WADA at the World Conference on Doping in Sport in Katowice, Poland on 7 November 2019.
4. We have interpreted parts 1, 2 and 3 of your request as for information relating to why WADA considered changes were needed to the 2015 Code (including a new category of 'Recreational Athletes' in the 2021 Code), and why a new International Standard for Education was implemented.
5. In UKAD's search for why WADA "*... consider that the needed to be increased protection for Athletes anti-doping education*" we have identified 968 potentially relevant records which will require review in order to enable us to respond to part 1 of your request. We estimate that it will take around 2 – 3 minutes to review each record. This will take UKAD an estimated 32 – 48 hours.
6. In UKAD's search for why WADA "*... consider that Recreational Athletes needed to be treated differently in terms of the sanction process, when compared International Level or National Level Athlete*" we have identified 592 potentially relevant records which will require review in order to enable us to respond to part 2 of your request. We estimate that it will take around 2 – 3 minutes to review each record. This will take UKAD an estimated 19 – 30 hours.
7. In UKAD's search for "*... any evidence and or consultation papers that provide full disclosure of why WAD considered the changes where necessary*" (to the 2015 Code and International Standards) we have identified 5,203 potentially relevant records which will require review in order to enable us to respond to part 3 of your request. We estimate that it will take around 2 – 3 minutes to review each record. This will take UKAD an estimated 173 – 260 hours.
8. Section 12 of the Act states that a public authority is not obliged to comply with a request for information if the authority estimates that the cost of compliance would exceed the appropriate limit. The appropriate limited is set out in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 and Schedule 1(1) of the Act, which provides that the limit for the cost of compliance is £450, or 18 hours at the flat rate of £25 per hour.

9. In relation to parts 1 and 3 of your request, we wish to direct you to the 2021 Code Review page on the WADA website.<sup>1</sup> This describes the review process of the Code and International Standards. We also wish to direct you to the 2021 World Anti-Doping Code and International Framework Development and Implementation Guide for Stakeholders on the WADA website.<sup>2</sup> At pages 31-33 you will find a summary of the key topics addressed in the 2021 International Standard for Education.
10. In relation to part 2 of your request, we wish to direct you to the 2021 World Anti-Doping Code and International Standard Framework Development and Implementation Guide for Stakeholders on the WADA website<sup>3</sup>. At page 19 you will find a summary of why a new category of 'Recreational Athletes' was introduced in the 2021 Code. We also wish to direct you to the 2021 Code Revision – Second Draft: Summary of Major Proposed Changes Found in the First Draft of the Code.<sup>4</sup> At page 7 you will find commentary from WADA relating to the introduction of a new category of 'Recreational Athletes' in the 2021 Code.

#### **Response to parts 4 and 5 of your request**

---

11. As described at paragraph 3 above, in December 2017 WADA initiated a two-year, three phase, review process of the Code and International Standards. This involved extensive stakeholder consultation with, for example, National Anti-Doping Organisations and International Federations for sport.
12. As a Signatory to the Code and the National Anti-Doping Organisation for the UK, UKAD was involved with WADA's review process of the Code and International Standards from its initiation in December 2017. This also included consultation on the introduction of a new Athletes' Anti-Doping Rights Act.
13. Numerous members of staff at UKAD engaged with WADA's review process of the Code and International Standards in relation to their respective areas of subject expertise.

#### **Response to parts 6 and 7 of your request**

---

14. The 2021 Code took effect from 1 January 2021 and include the 'Recreational Athlete' provisions for the first time. The 2021 UK Anti-Doping Rules (the '2021

---

<sup>1</sup> <https://www.wada-ama.org/en/what-we-do/the-code/2021-code-review>

<sup>2</sup> [https://www.wada-ama.org/sites/default/files/resources/files/worldconferencebackgrounder\\_0.pdf](https://www.wada-ama.org/sites/default/files/resources/files/worldconferencebackgrounder_0.pdf)

<sup>3</sup> *Ibid*

<sup>4</sup> [https://www.wada-ama.org/sites/default/files/resources/files/code\\_major\\_changes.pdf](https://www.wada-ama.org/sites/default/files/resources/files/code_major_changes.pdf)

ADR')<sup>5</sup> also took effect on 1 January 2021 (the 'Effective Date'). The 2021 ADR (which apply to rugby league under the auspices of the RFL) reflect the Code and so also include 'Recreational Athlete' provisions for the first time.

15. Article 1.6.2 of the 2021 ADR sets out that the 2021 ADR do not apply retroactively to matters arising prior to the Effective Date.<sup>6</sup>
16. Mr Carr's ADRV took place on 9 December 2019 and decisions from both his first instance and appeal hearings were rendered prior to the Effective Date. The relevant anti-doping rules that therefore applied to both Mr Carr's ADRV and the subsequent decisions rendered, were the UK Anti-Doping Rules (Version 2.0, in effect as from 1 October 2019) (the '2019 ADR') as these were the anti-doping rules in force at the time. The 2019 ADR do not contain any provisions relating to 'Recreational Athletes'.

### Response to part 8 of your request

---

17. The decision to apply the 2019 ADR in Mr Carr's case was not made by an individual at UKAD. Before the 2021 ADR came into effect the 2019 ADR were applied in accordance with legal principle.

### 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 via email to [foi@ukad.org.uk](mailto: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.

---

<sup>5</sup> <https://www.ukad.org.uk/sites/default/files/2020-11/2021%20UK%20Anti-Doping%20Rules%20v1.0%20FINAL.pdf>

<sup>6</sup> It should be noted, however, that Article 1.6.2(e) of the 2021 ADR provides:

"... Where a final decision finding an Anti-Doping Rule Violation has been rendered prior to the Effective Date, but the Athlete or other Person is still serving the period of Ineligibility as of the Effective Date, the Athlete or other Person may apply to UKAD before the period of Ineligibility has expired to reduce the period of Ineligibility in light of a lex mitior in these Rules..."

Yours sincerely,

UK Anti-Doping

**UK Anti-Doping**