

Ref: FOI-414

[REDACTED]

Sent via email only to:

[REDACTED]

15 August 2024

Dear [REDACTED]

1. Thank you for your email of 24 July 2023, in which you requested information from UK Anti-Doping ('UKAD') under the Freedom of Information Act 2000 (the 'Act').
2. Specifically, your request was as follows:

Please may you provide me, in Microsoft Excel or an equivalent electronic format, with a list of invoices that were not paid within 30 days for the last 6 financial years (2017/18 to 2022/23 inclusive) which would feed into the Regulation 113 Notice you are required to publish each year as part of your obligations under The Public Contracts Regulations 2015, with the following information for each invoice (where available):

- *The name of the Supplier*
- *Supplier email address*
- *Supplier company registration number*
- *Supplier postal address*
- *Supplier telephone number*
- *Supplier website*
- *The date of the invoice*
- *The invoice reference*
- *The gross value of the Invoice*
- *The date the invoice should have been paid by*
- *The actual payment date of the invoice*
- *The total amount of interest liability due to late payment of the invoice*
- *The total amount of interest paid to the supplier due to late payment of the invoice.*

For the avoidance of doubt we request the data behind payment performance summaries for Regulation 113 Notices, not the summaries themselves.

Summary of Response

3. UKAD confirms that it holds most of the information requested¹. However, this information is being withheld from disclosure pursuant to section 31 of the Act. In addition, certain information requested is being withheld from disclosure pursuant to section 40 of the Act. Further detail as to the application of these exemptions is set out below.

Response

4. UKAD is not disclosing to you the information requested. UKAD considers that the exemption at section 31 of the Act applies to such information, meaning it is not disclosable.

5. Section 31(1) of the Act provides as follows:

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—

(a) the prevention or detection of crime,

...

6. Information disclosed in response to a request under the Act is deemed to be a disclosure to the world at large. UKAD considers that the information requested, if disclosed, would be likely to prejudice the prevention of crime. This is because such information would be valuable to potential criminals looking to defraud UKAD in relation to claims for late payment of invoices.
7. Having determined that disclosure of the information requested would be likely to prejudice the prevention of crime, UKAD has considered the public interest arguments in favour of disclosure.
8. UKAD recognises the importance of transparency and accountability in relation to its use of public funds. However, it is UKAD's view that the greater public interest lies in protecting public funds from the risk of fraud. Disclosure of the information requested would be likely to prejudice the prevention of crime insofar that it would increase the risk of UKAD receiving fraudulent claims for late payment of invoices.

¹ UKAD does not hold the URL for supplier websites (where applicable).

9. UKAD has concluded that the public interest in disclosing the information requested is outweighed by the greater public interest in protecting public funds from the risk of fraud. UKAD is therefore withholding the information requested pursuant to the exemption under section 31 of the Act.
10. In addition, the exemption at section 40 of the Act applies to certain information requested, meaning it is not disclosable.
11. Section 40(2) of the Act provides as follows:

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.*
12. Section 40(3A) of the Act states:

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

 - (a) *would contravene any of the data protection principles.*
13. Personal data is defined in section 3(2) of the Data Protection Act 2018 ('DPA') and Article 4(1) of the retained EU law version of the General Data Protection Regulation ('UK GDPR') and includes information relating to an identified living individual.
14. The information requested includes personal data, that is personal information that relates to identified living individuals. Therefore, UKAD has gone on to consider whether disclosure of the personal data 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 lawfully, fairly and in a transparent manner.
15. The lawful basis on which UKAD processes personal data is contained in Chapter 1, 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, pursuant to the Information Commissioner's ('ICO') Guidance Note on section 40 of the Act², UKAD's lawful

² <https://ico.org.uk/for-organisations/foi/section-40-and-regulation-13-personal-information/>

processing of personal data for this purpose does not extend to disclosure to the general public under the Act.

16. Accordingly, UKAD may only lawfully disclose the personal data contained in the information requested on a different basis. The only two bases that may apply are consent (being consent to disclose that personal data under the Act) or if disclosure would be necessary for the purposes of a legitimate interest. UKAD does not have the consent of the individuals to provide this disclosure. Therefore, UKAD may only disclose this personal data to you if it is necessary for the purposes of a legitimate interest. To establish this lawful basis, all three of the following criteria must be met:
 - a. the purpose of disclosure is a legitimate interest;
 - b. disclosure must be necessary for that purpose; and
 - c. the legitimate interest(s) outweigh the interest(s) and rights of the individuals.
17. UKAD acknowledges the legitimate public interest in transparency and accountability in relation to its use of public funds. However, it is UKAD's view that disclosure of the personal data in the information requested would be unnecessary to achieve that purpose.
18. UKAD has also concluded that the public interest in disclosing the personal data in the information requested is outweighed by rights of the individuals. Therefore, UKAD does not have a lawful basis to disclose the personal data within the information requested and we are withholding it pursuant to the exemption under section 40 of the Act.

Conclusion

19. 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 request and should be addressed via email to: foi@ukad.org.uk. Please remember to quote the reference number above in any further communications.
20. 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

UK Anti-Doping