

Mr [REDACTED]

07 June 2023

Sent via email only: [REDACTED]

Ref: FOI-373

Dear [REDACTED]

1. Thank you for your email of 9 April 2023 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:

*1. I recently received a response to FOI-369, I was informed that in the following cases the NADP Tribunal found that the athletes had not committed an Anti-Doping Rule Violation:*

| Athlete Number | Year | Sport             | Type of Violation   | Substance              | First Instance Decision | Appeal Decision |
|----------------|------|-------------------|---|------------------------|-------------------------|-----------------|
| 1              | 2017 | Athletics         | Attempted Use of a Prohibited Substance   | -                      | Yes                     | -               |
| 2              | 2019 | Weightlifting     | Evading, refusing or failing to submit to Sample collection   | -                      | Yes                     | -               |
| 3              | 2019 | Rugby Union       | 1. Possession of a Prohibited Substance<br>2. Use or Attempted Use of a Prohibited Substance          | -                      | Yes                     | -               |
| 4              | 2019 | Athletics         | Tampering or Attempted Tampering with any part of Doping Control                                      | -                      | Yes                     | -               |
| 5              | 2020 | Welsh Rugby Union | Evading Sample collection   | -                      | Yes                     | -               |
| 6              | 2020 | Welsh Rugby Union | 1. Refusing or failing to submit to Sample collection<br>2. Tampering with any part of Doping Control | -                      | Yes                     | -               |
| 7              | 2021 | Rugby League      | Presence of a Prohibited Substance or its Metabolites or Markers                                      | oxandrolone metabolite | Yes                     | -               |
| 8              | 2022 | Rugby League      | Evading Sample collection   | -                      | Yes                     | -               |

*The UKAD regulations state that a summary of these decisions can be disclosed publicly, so long as the athlete can not [sic] be identified:*

*8.5.2 Where the hearing panel has determined that an Anti-Doping Rule Violation has not been committed, the decision shall not be Publicly Disclosed unless the Athlete or other Person consents to such disclosure. Where the Athlete or other Person does not so consent, a summary of the decision may be published, provided that what is disclosed does not enable the public to identify the Athlete or other Person.*

Therefore, I would like to request the following:

1. A summary of the decision in the cases involving Athlete 1 and 4 in the table above (The two athletics cases from 2017 and 2019). In the summary of the decision, please can UKAD detail the actions of the athlete/person that led to them being charged with an ADRV. For example, in the decision 2016 UKAD vs Luke Graham it states that Graham, like 'Athlete Number 1', was charged with "Attempted use of a prohibited substance". It is explained that Graham was charged with this offence because he imported anabolic agents, including testosterone, nandrolone and trenbolone.

Please can the summary also detail the defences of the athlete/person and the reason why the athletes were cleared of the ADRV.

Please can UKAD also provide the names of the arbitrators of the NADP in both cases. I trust these names can be provided just as they were in many UKAD cases such as UKAD vs Ellis Richards (<https://www.ukad.org.uk/sites/default/files/2021-05/UKAD%20v%20Richards%20-%20First%20Instance%20Decision.pdf>)

2. In the 2017 WADA Anti-Doping Rule Violation Report, there were 25 UKAD anti-doping cases that were pending as of 31st May 2019

Table 7 - AAF Outcomes by TA Category - NADOs

| ADAMS Code  | TA Name                                    | Total Samples | Total AAFs* | Medical Reasons | No Case to Answer | No Sanction | Pending | ADRV |
|-------------|--|---------------|-------------|-----------------|-------------------|-------------|---------|------|
| AFLD-NADO   | French Anti-Doping Agency                  | 7,276         | 164         | 23              | 20                | 4           | 19      | 98   |
| USADA       | US Anti-Doping Agency                      | 9,820         | 136         | 45              | 9                 | 10          | 5       | 67   |
| CHINADA     | China Anti-Doping Agency                   | 11,049        | 84          | 5               | -                 | 36          | -       | 43   |
| NADO ITALIA | Italian National Anti-Doping Agency        | 8,710         | 75          | 4               | 3                 | 1           | 5       | 62   |
| IND-NADO    | National Anti Doping Agency -India         | 3,174         | 71          | -               | -                 | -           | 21      | 50   |
| NADA        | German National Anti-Doping Agency         | 14,406        | 62          | 20              | 5                 | 2           | 8       | 27   |
| ABCD        | Braslian Authority on Anti-Doping Control  | 5,667         | 59          | -               | 4                 | -           | 6       | 49   |
| UKAD        | UK Anti-Doping                             | 7,426         | 97          | 1               | -                 | -           | 25      | 31   |
| CCES        | Canadian Centre for Ethics in Sport        | 3,943         | 56          | 22              | 2                 | 1           | -       | 31   |
| IRI-NADO    | I.R Iran National Anti-Doping Organization | 1,149         | 53          | -               | -                 | -           | 50      | 3    |
| ESP-NADO    | Spain National Anti-Doping Agency          | 3,655         | 49          | 2               | -                 | 1           | 4       | 42   |
| ADNP        | Portugual Anti-Doping Agency               | 2,926         | 47          | 1               | -                 | -           | 28      | 18   |

Please can UKAD disclose how many of these 25 "pending" doping cases eventually led to an anti-doping rule violation.

3. Please can UKAD provide the names of the NADP arbitrators in the case 2016 UKAD vs Luke Graham.

## Response

- UKAD confirms that, subject to the clarifications explained below, it holds some, but not all, information relevant to your request.
- Your first request is for summaries of decisions rendered by independent tribunals of the National Anti-Doping Panel ('NADP') in specific cases where the tribunal

has concluded that the Anti-Doping Rule Violation(s) ('ADRVs') charged were not proven to the 'comfortable satisfaction' standard of the hearing panel. UKAD confirms that it does not hold this information. ADR Article 8.5.2, to which you refer in your request, provides that where an Athlete is found not to have committed an ADRV (as in the cases to which your request relates) the decision shall not be publicly disclosed, but UKAD may produce and publish a summary of the decision. UKAD confirms that summaries of these types of NADP decisions are not produced as a matter of course and, in line with that approach, summaries of the specific cases in your request do not exist.

4. At part 2 of your request, you have requested information pertaining to statistics generated and disclosed by the World Anti-Doping Agency ('WADA'). UKAD confirms that it holds the information you have requested. Of the 25 'pending' AAF outcomes listed in the 2017 WADA ADRV Report, UKAD confirms that three of those resulted in an ADRV.
5. Please note that that the figures included within WADA's 2017 annual statistics were an amalgamation of (1) AAFs as defined in the World Anti-Doping Code, and (2) findings reported in accordance with other provisions including, amongst others, the Social Drugs Regulations of The Football Association. Despite the inclusion of these findings within WADA's data set, they do not constitute AAFs, as that term is defined.
6. It is also worth noting that there may be various reasons why the detection of an AAF in a sample does not automatically lead to an ADRV. For example, an Athlete who returns an AAF may have a Therapeutic Use Exemption ('TUE') which permits them to use a Prohibited Substance or Prohibited Method contained in the Prohibited List when such use or administration is necessary to address a legitimate medical requirement<sup>1</sup>. Alternatively, an Athlete may be able to show that a Prohibited Substance was ingested via a permitted route (as outlined in the Prohibited List) or that it was derived from the ingestion of a substance that is itself permitted (for example, morphine derived from the ingestion of codeine). The application of relevant Technical Documents and Technical Letters issued by WADA may also mean that an AAF in a sample does not necessarily lead to an ADRV.
7. Part 3 of your request was for the names of the NADP arbitrators in the 2016 case of *UKAD v Luke Graham*. UKAD confirms that it does not hold the information you

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<sup>1</sup> Further information about the TUE system is available on the UKAD website [here](#)

have requested. This matter was dealt with by way of a UKAD Issued Decision; it was not referred to the NADP for arbitration and therefore there are no NADP arbitrators associated with this decision.

## Conclusion

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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](mailto:foi@ukad.org.uk). 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, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Yours sincerely

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

**UK Anti-Doping**