

Official

Ref: FOI-188

[REDACTED]
Sent via email only to:
[REDACTED]

21 May 2018

Dear [REDACTED]

1. Thank you for your email of 29 March 2018, 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:
 - a. *I would like to know the records of all Therapeutic Use Exemption ('TUE') applications that were granted to footballers in each of the last five English football seasons (2013-14, 2014-15, 2015-16, 2016-17, 2017-18). The details I would like, if available, are: medicine involved, reasons for application and dates of application. If you can break them down by league and club also, then I would like that too.*
 - b. *I would also like to know the total tests administered in each of the last five English football seasons (2013-14, 2014-15, 2015-16, 2016-17, 2017-18) with them broken down by league.*

Obviously the 2017-18 season is still ongoing, so as up to date information for this season would be appreciated.
2. By email dated 3 April 2018, UKAD wrote to you to clarify your request. We asked you to confirm the names of the specific leagues you were referring to. You confirmed via return email that your request related to the following leagues: Premier League, Championship, League 1 and League 2.
3. We have considered your request for information in two parts. Part one relates to your request for the details of Therapeutic Use Exemptions ('TUEs') granted by UKAD; part two relates to your request for the number of tests administered by UKAD.

Part 1: details of TUEs granted by UKAD

4. UKAD confirms that it holds details of all TUEs granted by UKAD to footballers (i.e. players registered with the English Football Association ('FA')) in each of the last five English football seasons (2013-14, 2014-15, 2015-16, 2016-17, 2017-18). Our records for each TUE application include details of the medicine involved, the medical condition for which the medicine is required and the date of the application. We do not record details of the footballer's League and/or Club. Please note that UKAD does not hold details of any TUEs granted by the Union of European Football Associations ('UEFA') or the Fédération Internationale de Football Association ('FIFA'). Players who at the time of their TUE application are competing in a UEFA or FIFA competition are required to apply for a TUE directly to UEFA or FIFA. UKAD has taken your request for the "reason" for the application to be a request for the medical condition to which the TUE application relates.
5. UKAD has decided to disclose the requested information to you, with the exception of the following details:
 - a. the date of each application; and
 - b. the medical condition to which the TUE application relates,

both of which are exempt pursuant to section 40 of the Act (personal information). This is dealt with further below. In lieu of providing you with the specific medical condition, we have provided details of the "medical category" into which the medical condition would fall.

Section 40 exemption: personal data

6. Section 40(2) of the Act states:

Any information...is exempt if it constitutes personal data...and...the disclosure otherwise than under this Act would contravene any of the data protection principles.

7. The date of the TUE application and the medical condition constitute both "personal data" and "sensitive personal data" as defined under the Data Protection Act 1998 ('DPA'), as disclosure of this information, together with details of the sport, season, medical category and medicine to which that information corresponds, may enable you to identify to whom a particular TUE application relates. Both the fact that a TUE application has been made and the details of that application constitute sensitive personal data.

8. Having determined that the date of the application and the medical condition constitute “sensitive personal data”, UKAD has gone on to consider if disclosure of that personal data would contravene one of the data protection principles. In so doing UKAD has focused on the first data protection principle as set out in Schedule 1 to the DPA, which is as follows:

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, and

(b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met.

9. In determining whether or not disclosure of the date of the application and/or the medical condition would contravene the first data protection principle, UKAD has first considered whether disclosure would be fair to the players who have been granted a TUE. If disclosure would not be fair, the exemption under section 40(2) of the Act would be satisfied and the requested information could not be disclosed. After considering the various factors applicable in this matter, UKAD has concluded that disclosure of the date of the application and/or the medical condition would not be fair to the data subjects, being the players who have been granted a TUE. In coming to this conclusion UKAD has considered the following factors:
- a. That the information sought is sensitive personal data.
 - b. The reasonable expectations of the data subject. Under the UK Anti-Doping Rules ('ADR') and the World Anti-Doping Code ('the Code') the fact of and details of a TUE application are confidential.¹ The reasonable expectation of any player applying to UKAD for a TUE would therefore have been that the requested information would not be disclosed, except as necessary as part of the TUE application (or to ensure recognition of the TUE by other Code Signatories) and on a strictly confidential basis in accordance with the International Standard for Therapeutic Use Exemptions ('ISTUE').
 - c. The consequences of disclosure to the data subject. Disclosure could be distressing to the data subject given that it would contravene their legitimate right to confidentiality in respect of the requested information.

¹ Refer Article 9 of the WADA International Standard for Therapeutic Use Exemptions, in particular Article 9.5.

- d. Whether there is a legitimate public interest in the disclosure. UKAD recognises the importance of transparency and accountability in general, both in terms of the public confidence that this inspires and also in providing the public with the ability to examine decisions taken in particular cases. On the other hand, UKAD has taken account of the fact that disclosure would contravene the rights of those who have applied for a TUE to have the confidentiality of that information respected pursuant to the terms of the Code, the ISTUE and the International Standard for the Protection of Privacy and Personal Information ('ISPPi'). In this particular case, UKAD does not consider that there is an overriding legitimate public interest in providing the information such as to make its disclosure fair. In coming to this conclusion UKAD has also taken account of the details that *are* being disclosed, in particular disclosure of the relevant season in which the TUE was applied for and the relevant medical category.
10. Having concluded that disclosure of the date of the application and/or the medical condition would not be fair, to disclose that information would contravene the first data protection principle. Therefore, the exemption under section 40(2) of the Act applies to the date of the application and the medical condition.
11. As UKAD has concluded that disclosure of the date of the application and/or the medical condition would be unfair, it is not required to consider whether any of the conditions in Schedule 2 and/or Schedule 3 of the DPA would be met. Nonetheless, for the sake of completeness, UKAD is satisfied that none of the conditions in Schedule 2 or 3 of the DPA are met in this case.
12. UKAD otherwise provides the information requested in the tables set out at **Annex 1**. Please note that UKAD has defined a season as the 12-month period commencing 1 June and ending 31 May the following year. To avoid double counting, the data provided excludes TUE extensions granted to players that had already been granted a TUE for the same condition/treatment within that same season.

Part 2: details of tests conducted by UKAD

13. UKAD confirms that it holds details of tests conducted by UKAD on footballers in each of the last five English football seasons, with each season being the period commencing 1 June and ending 31 May the following year. With respect to the figures for the 2017/2018 season, which has not yet been completed, the figures provided cover the period 1 June 2017 to 3 April 2018. As per your request, the

information provided – set out at **Annex 2** – is broken down by League (Premier League, Championship, League 1 and League 2).

14. Please note that for the purpose of the figures at Annex 2, the meaning of a “test” is any successful attempt to test a single player. If multiple samples (blood and/or urine) are collected from a player in a single Sample Collection Session, this is counted as two successful tests. The figures include tests conducted by UKAD on its own behalf (which includes contracted testing for the FA) and on behalf of other anti-doping organisations.

Conclusion

15. 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.
16. 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 5A

Yours sincerely

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

UK Anti-Doping

Annex 1 – details of TUEs granted by UKAD to footballers registered with the English Football Association

Table 1: Summary of TUE approvals during the 2013/14 season

Medical Category	Substance(s)	Count	Total
Auto-immune Diseases	Bendroflumethiazide and prednisolone	1	3
	Methylprednisolone	1	
	Prednisolone	1	
Digestive System Diseases	Hydrocortisone	1	2
	Prednisolone	1	
Endocrine & Metabolic Disorders	Dexamethasone	1	1
Musculoskeletal Injuries	Dexamethasone	1	6
	Fentanyl	1	
	Fentanyl and morphine	1	
	Fentanyl, ephedrine and morphine	1	
	Methylprednisolone	2	
Nervous System Disorders	Amphetamine and dextroamphetamine	1	1
Other Acute Medical Conditions	Betamethasone	1	4
	Dexamethasone	2	
	Dexamethasone and morphine	1	

Other Chronic Medical Conditions	Prednisolone	1	1
Respiratory Conditions	Prednisolone	3	4
	Terbutaline	1	
Grand Total			22

Table 2: Summary of TUE approvals during the 2014/15 season

Medical Category	Substance(s)	Count	Total
Allergies and Skin Conditions	Prednisolone	2	2
Auto-Immune Diseases	Methylprednisolone	1	2
	Prednisolone	1	
Digestive System Diseases	Prednisolone	2	2
Endocrine and Metabolic Disorders	Insulins	2	2
Musculoskeletal Injuries	Fentanyl and morphine	1	2
	Morphine	1	
Nervous System Disorders	Amphetamine and dexamphetamine	1	2
	Prednisolone	1	
Other Acute Medical Conditions	Deflazacort	1	2
	Fentanyl	1	
Other Chronic Medical Conditions	Bendroflumethiazide	1	1
Respiratory Conditions	Prednisolone	3	3
Grand Total			18

Table 3: Summary of TUE approvals during the 2015/16 season

Medical Category	Substance(s)	Count	Total
Allergies and Skin Conditions	Prednisolone	4	6
	Prednisolone and hydrocortisone	1	
	Triamcinolone	1	
Auto-Immune Diseases	Methylprednisolone	1	1
Digestive System Diseases	Budesonide	1	2
	Prednisolone	1	
Endocrine and Metabolic Disorders	Anastrozole, fludrocortisone and hydrocortisone	1	3
	Insulins	1	
	Testosterone	1	
Nervous System Disorders	Amphetamine	1	2
	Prednisolone	1	
Other Acute Medical Conditions	Morphine	1	2
	Prednisolone	1	
Other Chronic Medical Conditions	Eplerenone and prednisolone	1	2
	Dexamethasone and fentanyl	1	
Respiratory Conditions	Prednisolone	3	3
Grand Total			21

Table 4: Summary of TUE approvals during the 2016/17 season

Medical Category	Substance(s)	Count	Total
Allergies and Skin Conditions	Adrenaline, dexamethasone, hydrocortisone, methylprednisolone, and prednisolone	1	6
	Adrenaline and prednisolone	1	
	Prednisolone	4	
Digestive System Diseases	Fentanyl	1	3
	Prednisolone	2	
Endocrine and Metabolic Disorders	Insulins	3	4
	Testosterone	1	
Nervous System Disorders	Lisdexamphetamine	1	2
	Methylphenidate	1	
Other Acute Medical Conditions	Acetazolamide	1	3
	Prednisolone	1	
	Prednisolone and furosemide	1	
Other Chronic Medical Conditions	Indapamide	1	2
	Prednisolone	1	
Respiratory Conditions	Salbutamol	1	2
		1	

	Salbutamol, prednisolone and hydrocortisone	
Total		22

Table 5: Summary of TUE approvals during the 2017/18 season (correct up to 03 April 2018)

Medical Category	Substance(s)	Count	Total
Allergies and Skin Conditions	Adrenaline	1	4
	Hydrocortisone and prednisolone	1	
	Prednisolone	2	
Digestive System Diseases	Fentanyl	1	5
	Hydrocortisone	1	
	Prednisolone	3	
Endocrine and Metabolic Disorders	Insulins	2	3
	Tetracosactide	1	
Musculoskeletal Injuries	Fentanyl	1	3
	Prednisolone	2	
Nervous System Disorders	Amphetamine	1	5
	Lisdexamphetamine	1	
	Methylphenidate	3	
Other Acute Medical Conditions	Dexamethasone	1	3
	Methylprednisolone	1	
	Prednisolone	1	
Other Chronic Medical Conditions	Darbepoetin	1	3
	Indapamide	1	

	Prednisolone	1	
Respiratory Conditions	Prednisolone	2	3
	Salbutamol and prednisolone	1	
Grand Total			29

Annex 2 – details of tests conducted by UKAD

Table 1: 2013/14 season

League	Samples Collected
Premier League	497
Championship	316
League 1	228
League 2	234
Grand Total	1275

Table 2: 2014/15 season

League	Samples Collected
Premier League	679
Championship	473
League 1	354
League 2	324
Grand Total	1830

Table 3: 2015/16 season

League	Samples Collected
Premier League	799
Championship	540
League 1	347
League 2	317
Grand Total	2003

Table 4: 2016/17 season

League	Samples Collected
Premier League	1171
Championship	706
League 1	407
League 2	381
Grand Total	2665

Table 5: 2017/18 season (to date, being the period 1/6/2017 – 3/4/2018)

League	Samples Collected
Premier League	1506
Championship	877
League 1	518
League 2	520
Grand Total	3421