



DATA PROTECTION GUIDANCE TO
NATIONAL GOVERNING BODIES USING ADAMS
Version 2 December 2009

INTRODUCTION

ADAMS is a web-based system developed by the World Anti-Doping Agency (WADA). UK Anti-Doping, as the UK's National Anti-Doping Organisation, administers access to ADAMS by National Governing Bodies (NGBs) and others in the UK. Your NGB will use WADA's Anti Doping Administration Management System (ADAMS) in order to manage its anti-doping programme and ensure that its members comply with all relevant anti-doping rules and policies. In order to facilitate this, your NGB will be able to access the following parts of the system:

- athlete profile: this includes information added by the athletes (or their nominated advocate) about themselves, including contact details; it can be continually updated as required;
- athlete whereabouts: this includes diarised information added by the athletes (or their nominated advocate) in relation to their whereabouts; it can be continually updated as required;
- Therapeutic Use Exemption (TUE) information: this is information relating to athletes' TUE applications, which they can make online, whether confirmation of approval or otherwise has been given from the relevant issuing body; and
- test data: this is in-competition and out-of-competition test data which has been collected on the athlete, including information on adverse analytical findings.

Your NGB will also have access to information on Athlete Support Personnel who are associated with the organisation.

The Data Protection Act (the Act) sets out rules applicable in the UK to all organisations which use personal information about identifiable, living, individuals. NGBs who use ADAMS must comply with the Act in using ADAMS. UK Anti-Doping has prepared this guidance to assist you in complying with the Act.

WADA has also prepared a Standard for the Protection of Privacy (v1.0) (the Standard), which seeks to ensure that Anti-Doping Organisations apply appropriate privacy protections in the course of anti-doping programs. Whilst NGBs may not fall under WADA's definition of an Anti-Doping Organisation, your role is such that you can and should consider the Standard. Therefore, we have taken it into account in preparing this guidance.

If you have further queries you should contact your legal advisers, or the Information Commissioner's Office (ICO), which can be contacted on 01625 545745.

This guidance contains the following sections:

1. Registration requirements for ADAMS;
2. Obligations under the Data Protection Act;

Appendix One: WADA requirements for notices to athletes; and

Appendix Two: guidance on notification.

1. NOTIFICATION

1.1 General

It is an offence to process personal data without having registered with the Information Commissioner (a process called “notification”) and it is an offence not to keep this up to date.

All NGBs must ensure that their notification covers use of ADAMS. We have developed a standard additional purpose form, with the ICO, which covers use of ADAMS by NGBs. You should sign this and return it to the postal address on the form. The NGB ICO Additional Purpose Form can be downloaded online by going to our website: www.ukad.org.uk . Alternatively you can request for a form to be sent by post by telephoning the ICO’s notification help line on 01625 545 740.

Although there are some exemptions from the obligation to notify, these are very limited, and it is likely that all NGBs should have notified with ICO. If you have not notified with ICO, you will need to do so before you can file the standard form above. Further guidance on the notification process is in Appendix Two.

2. YOUR OBLIGATIONS UNDER THE ACT

You must follow the 8 Data Protection Principles set out below whenever you use ADAMS.

To assist you in this you should designate a member of staff as your data protection officer, who will be responsible for data protection compliance in your NGB. This is also a requirement of the WADA Standard.

(1) Personal data must be processed (i.e. used) fairly and lawfully

This principle has a number of components:

- “Fairness” is a broad, general, concept, but it is particularly important to make sure that the processing will be within the individual’s reasonable expectations.
- The individual must be told how his or her information will be used (WADA rules also require this – see Appendix 1 for more information on this).
- The information must not be processed, unless the individual has given consent, or one of a number of conditions set out in Schedules to the Act is met.
- Where the information is confidential, then it must be treated with special care, in accordance with the law of confidence. Some of the information in ADAMS is confidential (whereabouts information; test results information; TUE information; results data and disability information).

Athletes are told about ADAMS in a variety of ways:

- via the Sample Collection Form completed when an athlete is tested;
- via the TUE application forms; and
- via the on-line ADAMS user agreement.

These forms contain data protection wording which meet the requirements of the Act and the WADA Standard and also ask athletes to give consent to the use of their information for anti-doping purposes by Anti-Doping Organisations (ADOs) and NGBs. This means that your access to ADAMS for anti-doping purposes, in accordance with the World Anti-Doping Code (the Code), will comply with this Principle and that you will not need to give athletes any additional information about this.

There are special considerations when information is collected from children. Generally, UK Anti-Doping's approach is that the parent or guardian must give consent both for the child to take part in testing and for the child's information to be processed in ADAMS. NGBs have varying ages below which parental consent is required. Each NGB is responsible for obtaining consent from the parent or guardian – this could be done via membership forms, or through forms used when a child is entered into a competition. If a parent accompanies a child during testing, then both the parent and the child will be asked to sign the Sample Collection Form.

Each NGB should ensure that the parent or guardian is given a full and clear explanation of the testing process and as to how their child's information will be used. Unless this is done, the consent may be invalid as it will not be informed. Information about use of data should cover the requirements of the WADA Standard, set out in Appendix 1.

For TUE information, UK Anti-Doping again asks the parent to countersign the form. There is also an option for the medical practitioner to sign if the parent has not given consent because the practitioner has taken the view that the child is competent to consent to treatment.

Disclosure of information to a third party often raises data protection concerns as this may not always be "fair". Generally, you should not need to disclose information from ADAMS to a third party as ADAMS itself allows appropriate data sharing. The most likely occasion where you may need to disclose information from ADAMS is where you need to provide whereabouts information to an International Federation that does not have access to ADAMS, in order to allow that Federation to comply with its obligations under the Code. This information can be disclosed, unless you have concerns that the Federation is incapable of complying with the Standard. If you have such concerns, they should be reported to WADA. If you wish to disclose information from ADAMS in other situations, you should seek advice.

(2) Once personal data is being fairly and lawfully processed, it must not then be processed for incompatible purposes

Data held on ADAMS may be fairly and lawfully processed for anti-doping purposes; it may not be used for other, incompatible, purposes. For example, if an NGB wishes to use ADAMS in order to supplement, or check athletes' contact information that it holds for other management purposes, or to send promotional material, this would be use for an incompatible purpose. Use of ADAMS data for any purposes beyond anti-doping would require consent from all athletes concerned.

(3) Personal data must be adequate, relevant and not excessive in relation to the purpose or purposes for which it is to be processed

You must bear this principle in mind when determining who in your NGB will have access to ADAMS. Access should only be granted to people whose role involves anti-doping work. Following this rule will also help your organisation maintain appropriate security of information (see point 7 below). **You should not allow others access to ADAMS, either via log-in arrangements, or on an ad-hoc basis, unless there is a genuine need for them to know information from ADAMS for anti-doping purposes.**

UK Anti-Doping also takes this principle into account when setting access rights for the different organisations which can access ADAMS (so, for example, NGBs can only see athlete information relating to their athletes).

(4) Personal data must be accurate and, where necessary, kept up to date

This does not mean that you have to independently verify all information on ADAMS. However, you must take reasonable steps to ensure that information you provide to ADAMS is accurate. In addition, if you become aware of any inaccuracies you should notify them to UK Anti-Doping. On your membership form you should also ask that the player keeps their information up-to-date and accurate, by notifying you of changes, or, for athletes submitting whereabouts information, by amending details directly on ADAMS.

(5) Personal data must not be kept for longer than is necessary for any purpose

Retention periods for information held within ADAMS are set by WADA itself. However, if you copy or print information from ADAMS, then you will need to determine the retention period for this information. The appropriate period would depend on why an NGB copied the information. For example, if this was just for temporary ease of use, then it should be deleted promptly as soon as the task has been finished. However, there may be other reasons which would justify a longer period. The information should be securely destroyed as soon as these time limits expire.

(6) Personal data must be processed in accordance with individual's rights

Individuals are entitled to have a copy of any personal data that relates to them that an NGB holds together with a description of the data, a description of the purposes for which it is being processed and a description of any recipients of their data. You can make a reasonable administrative charge (up to £10) for providing copies of this information.

All the information that an NGB can see on ADAMS will be visible to an athlete who is set up to use ADAMS. Accordingly, this can all be released to the athlete. If you receive an access request and wish to withhold any information, you should take advice to see if an appropriate exemption applies.

Fraudsters sometimes use subject access requests in order to obtain information; for this reason, you should require requests to be made in writing and, if appropriate, should ask the requester to provide information confirming their identity (for example, a copy of a passport or a recent utility bill). You should also only send the information to the last known address for the athlete.

Individuals also have rights to prevent direct marketing, automated decision taking (e.g credit scoring) and to prevent processing which causes unwarranted and substantial damage and distress. However, given the nature of the ADAMS database, the first two rights will not be relevant. Requests to prevent processing are rare and are also unlikely to be applicable to ADAMS.

In addition to these rights, Anti-Doping Organisations must have a procedure in place to handle complaints by individuals about the processing of their information.

(7) Appropriate technical and organisational measures must be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data

UK Anti-Doping and NGBs will rely on WADA to ensure that appropriate technical measures are taken to protect ADAMS. However, when you use ADAMS you should do the following:

- Limit access to ADAMS to those in your organisation who have a genuine need to know;
- Do not write passwords down and do not share passwords. Notify UK Anti-Doping immediately if you believe that your password is no longer secure;
- Do not leave your computer unattended while you are logged on to ADAMS; and
- Make sure that information on screen cannot easily be seen by others.

If you copy information from ADAMS – either by the facility to export information into excel, or by printing, then you are responsible for ensuring appropriate security for this information in line with your existing Information Systems security policies. There is a risk of serious harm arising if, for example, an athlete's positive test information entered the wrong hands. Therefore you should consider how best to store your records securely and how you can securely dispose of any information when required.

You must ensure that any persons who have access to the data are reliable and aware of their duty not to use the information other than for permitted purposes.

There is guidance from the Information Commissioner on ensuring data security, see:

http://www.ico.gov.uk/upload/documents/library/data_protection/practical_application/security%20v%201.0_plain_english_website_version1.pdf.

In particular, you should:

- Not copy information from ADAMS onto removable media (laptops/USB sticks etc.). If such media are used, then they must be encrypted to the standard recommended by the Information Commissioner;
- Hold any paper copies in locked cabinets;
- Ensure all information is securely destroyed when it is no longer needed, so that the information can no longer be retrieved. In the case of paper records, they should be held in secure confidential bins prior to being shredded.

Breaches of security can also occur if private investigators, journalists or others obtain information from ADAMS by deception (for example, if they call up pretending to be the athlete's representative). You should not release information in ADAMS to any one other than the athlete, after you have verified their identity – for example by asking for two pieces of information on ADAMS which only the athlete is likely to know. If you are tricked into releasing information in breach of this rule and cannot demonstrate that you took appropriate steps to verify the identity of the applicant, you may personally have committed an offence under the Act.

(8) Personal data must not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data

The EEA (the 25 member states of the EU, plus Norway, Iceland and Liechtenstein) has data protection legislation that protects an individual's rights. In order to ensure that an individual's rights are not removed, when data is transferred, the Act prohibits organisations from transferring personal information outside the EEA, save in certain limited circumstances.

WADA, based in Canada, has access to all information on ADAMS. Canada also has extensive data protection legislation which has been recognised as "adequate" by the European Commission so that transfers can be made freely to most Canadian organisations, including WADA.

Information can also be disclosed outside the EEA where individuals give their consent to this. Athletes give consent to information being disclosed outside the EEA – for example to sporting federations and games' organisers - in the test consent forms and the TUE forms. Whenever an NGB wishes to disclose information in ADAMS to another organisation, whether within the EEA or not, the NGB should ensure that it can meet the guidelines on disclosure set out on page [4] above.

APPENDIX ONE: WADA RULES ON NOTIFYING INDIVIDUALS

WADA's Standard for the Protection of Privacy and Data Protection provides that each Anti-Doping Organisation must notify participants of:

- The identity of the ADO collecting the personal information;
- The types of personal information to be processed;
- The purposes for which the personal information will be processed and for how long it will be retained;
- Other potential recipients of the information (including ADOs in countries where the athlete may compete, train or travel);
- When personal information may be published;
- Their rights in relation to personal information, and how they should exercise those rights (including information about complaints procedures); and
- Any other information which is necessary to ensure that the use of personal information is fair – such as information about bodies, such as the Information Commissioner's Office, who have a role in regulating use of information.

The above information must be provided before or at the time that information is collected from athletes and must be in a form that athletes can easily comprehend.

In addition, where athletes are asked to give consent to the processing of their information, forms must:

- Advise them of the potential negative consequences of refusing to give consent (i.e. that this could prevent their continued involvement in organised sport , could invalidate competition results and may amount to a breach of the Code);
- Advise them that certain processing will take place even if consent is not given - where this is required in connection with anti-doping investigations, proceedings or legal claims.

APPENDIX TWO: NOTIFICATION

How to notify

If your NGB has not notified so far then, irrespective of ADAMS, you should do so straight away. You can do this online or by telephone and a fee of £35 is applicable. It is likely to be easiest to notify by telephone. The ICO's notification help line is 01625 545 740. They will send a draft notification form to you based on the information you will be asked to provide on the telephone. If you wish to notify online, then a notification form can be downloaded and printed online at: <https://forms.informationcommissioner.gov.uk/cgi-bin/dprproc?page=7.html>.

To cover your use of ADAMS, you will also need to submit an Additional Purpose Form to supplement this notification form. If your organisation has already notified, submission of an Additional Purpose Form is free of charge. Together UK Anti-Doping and the ICO have developed a standard Additional Purpose Form to cover use of ADAMS. This is not available on the ICO website, but can be downloaded and printed online by going to: www.ukad.org.uk and downloading the document "NGB ICO Additional Purpose Form". Alternatively you can request for the ICO to send this to you by post by calling 01625 545 740.

The completed notification form (if you have not already notified) and Additional Purpose Form should be signed, dated and sent to the Office of the Information Commissioner. You should send the completed forms by registered post to ensure that the notification is valid from the day that the notification (presuming that it has been properly completed) is received by the ICO. You should also enclose the notification fee, currently £35, if applicable. This can either be sent by cheque or postal order or by BACS. An organisation that fails to sign and date the form or to submit the fee will have its notification returned. Notifications last for a period of one year. The notification will expire unless it is renewed and the current fee paid. The ICO will usually write to you before your notification expires. However, to avoid the risk of failing to renew it is advisable to pay by direct debit. You must advise any changes to your notification to the ICO.

What to include in your notification?

Before starting the notification process you should have the following information to hand:

1. name of organisation: that is, the legal entity that is obliged to register;
2. address: this should be the registered office of a company, or the principal place of business of other organisations; and
3. contact details. These will not be published on the notification (unless you request that they are). Instead, they are for use by the ICO.

If you apply to notify by telephone, at this point you will be asked to provide a brief description of what you do. Based on this, ICO will select a template notification that they believe most closely reflects this. This form will then be sent back to you to check and amend as necessary. If you notify via the internet, the notification website will show a list of available templates. Whether you notify by phone or via the internet, you will need to check the suggested details carefully and amend them to suit your NGB.

The main part of the notification is a list of the purposes for which each organisation processes personal data. The purposes include broad categories as staff administration, crime prevention, and marketing and public relations. The *Notification Handbook* (available online at:

http://www.ico.gov.uk/upload/documents/library/data_protection/detailed_special_list_guides/notification_handbook_final.pdf) provides an explanation of what each purpose covers. If none of the standard purposes applies, an organisation can opt to describe its own purposes, by completing a free text section on the notification form. With respect to your use of ADAMS, this purpose will be covered by completing the standard Additional Purpose Form as discussed above.

For each purpose that an NGB includes in its notification, you must go on to list:

- the individuals about whom you process personal data for that purpose;
- the data classes (*i.e.* the types of personal data that relate to those individuals—these could cover identifiers (*i.e.* unique reference codes, information on services supplied or financial details);
- the types of people to whom the organisation may disclose the personal data (ranging from the individuals themselves through to police forces and the media); and
- whether the information will be transferred outside the European Economic Area (this is the EU, plus Norway, Iceland and Liechtenstein). Here, an organisation can either specify that there will be no transfers outside the EEA, or it can list the individual countries or, if more than ten countries are involved, it may tick the world-wide transfer box.

The final part of the notification form includes more administrative arrangements.

This covers the following:

- details of any trading names (an organisation does not have to provide this information);
- details of any representative. This is aimed at data controllers that have no real business presence in the UK, so will not be relevant to NGBs;
- security statement. NGBs must provide a very general description of the security employed to protect personal data against breaches of security. The security statement is not made available to the public; and
- statement of exempt processing. Data controllers must specify whether they are notifying all their processing of personal data, or whether they are only notifying processing which they are obliged to notify (for example, there is no obligation to notify processing of paper records).

For further assistance please contact the ICO's notification help line on:

01625 545 740.