

**IN THE MATTER OF AN APPEAL TO THE  
(FIRST TIER) TRIBUNAL (INFORMATION RIGHTS)**

**CASE No: EA/2010/0162**

**BETWEEN:**

MR C ZACHARIDES	<b>Appellant</b>
AND	
THE INFORMATION COMMISSIONER	<b>Respondent</b>
AND	
UNITED KINGDOM SPORTS COUNCIL	<b>Additional Party</b>

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**WITNESS STATEMENT  
OF Peter Keen**

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I, Peter Keen, employee of UK Sport, 40 Bernard Street, London, WC1N 1ST, **WILL SAY** as follows:

1. I am a Director in the employ of the Additional Party in this case, UK Sport. I have been the Director of Performance since December 2008 and prior to this I was the Head of Performance. I joined UK Sport in March 2004 as a Performance Consultant.
2. I make this Witness Statement from facts and information which are within my own knowledge except where otherwise expressly stated. Where otherwise expressly stated I will identify the source of my knowledge. In each case I believe such facts and information to be true.
3. In this Witness Statement references to documents referred to within my Witness Statement are documents exhibited as "PK1" "PK2" etc, pages within the Open Bundle as "OB1", "OB2" etc and pages within the Closed Bundle as "CB1", "CB2" etc.
4. I make this Witness Statement in response to the Appellant's Notice of Appeal (located at pages OB15 to OB30) and am duly authorised on behalf of UK Sport to make this Witness Statement.

5. UK Sport is a non- departmental public body established (as the United Kingdom Sports Council) by Royal Charter (RC: 000765) whose offices are situated at the address stated above.
6. As a public authority, I understand that UK Sport is required to respond to requests for information in accordance the Freedom of Information Act 2000 (FOIA).
7. I designed the system known as Mission 2012 under which the Disputed Information has been provided to UK Sport. The primary aim of Mission 2012 is to maximise the performance of UK sportspeople at the London Olympic and Paralympic Games. It does so by assisting National Governing Bodies of Sport (NGBs) who have the responsibility for training, preparing and selecting the very best sportspeople and coaches to represent our nation. The core of the Mission 2012 process is a frequent, formal dialogue between the NGBs and UK Sport on the progress being made by their athletes and staff towards their targets and aspirations for London. We focus on factors that are outstanding, so that best practice can be shared where appropriate with different sports, and also where there are problems or obstacles to progression. Where the latter are identified UK Sport seeks to identify proven solutions, either from other sports or our growing network of expertise in a range of sectors. Central to the design of the information exchange component of the Mission 2012 system is the need for a detailed, honest dialogue about the factors that make a genuine performance difference in sport. As the ultimate purpose of this endeavour is, wherever possible, to gain a winning edge over our competitors. It has been critical from the outset of Mission 2012 that the principle of confidentiality was assured in order to build the trust necessary for NGBs to share insights with direct relevance to performance outcomes.
8. Success in Olympic and Paralympic competition represents the ultimate achievement in the majority of sports with a significant following and participation around the world. The International Olympic and Paralympic Committees (IOC, IPC) require athletes to represent their nation through a nomination process delegates to National Olympic and Paralympic Committees (NOCs, NPCs) of member nations, which in turn are required to comprise of representatives from NGBs. A more direct model operates for World and Regional Championships whereby the governing International Federation (IF) authorises member NGBs to select and present teams. Central to both systems is a requirement that NGBs are sovereign bodies accountable to the sport movement.
9. Winning medals at the Olympics/Paralympics, Commonwealth Games and World Championships is coveted by most Nations and as a consequence their governments invest significant sums of public money in supporting athletes and sporting organisations

(NGBs, National Elite Sport Institutes) in the hope of producing medallists. However, given the critical requirement for NOCs and NGBs to be free from State control, great care must be taken that public funding is not confused with state ownership. The publicly funded UK High Performance Sport System has therefore been designed to operate in a manner that fully recognises and respects the sovereignty of NGBs.

10. UK Sport distributes National Lottery and Exchequer funding to the NGBs of Olympic and Paralympic Sports in the United Kingdom to help support their most promising athletes, coaches, programmes and the UK High Performance Sporting System in order to achieve success at Olympic and Paralympic Games. This system is also referred to as the World Class Performance Programme (or Pathway) by UK Sport and NGBs. UK Sport distributes funding over Olympic and Paralympic cycles. The current cycle is the London 2012 cycle and funding operates from 1 April 2009 until 31 March 2013. A detailed overview of our approach to investing in specific sports is contained in the UK Sport Performance Investment Guide (Exhibit PK1) ("The Performance Investment Guide").
11. The Performance Investment Guide sets out the principles under which UK Sport funds NGBs and the process of reviewing the public investment in NGBs on an annual basis. This should not be confused with the Mission 2012 process, I refer to page 11 of Exhibit PK1 which sets out the role of Mission 2012 in further detail and how it interacts with our (UK Sport's) funding relationship with NGBs. These two processes interact in order to provide UK Sport with a multi-dimensional view of an NGB when making investment decisions and to provide targeted solutions to problems and obstacles faced by an NGB. I am responsible for the Mission 2012 process. Without Mission 2012 operating under confidentiality and the need for an open dialogue this approach would not be possible and would lead to less accountability for the public investment made in the NGB.
12. I began to develop the thinking behind the Mission 2012 system in October 2006. The motivation was to provide a cultural shift in the way that UK Sport assesses the performance and development of the NGB's sport(s) UK Sport invests in. The aim was to provide a strong level of accountability for what would be a record level of public investment in Olympic and Paralympic sport ahead of the 2012 Games, and to ensure that sports arrived at the 2012 Games in the best possible shape as a consequence of better planning, reflective practice and the sharing of expertise. I refer to Exhibit PK2 which is an extract from a document entitled "A Guide to UK Sport" (produced in September 2009) and provides an overview of Mission 2012 under the heading "What is it?"
13. The importance that became attached to the plan to introduce the Mission 2012 process was highlighted by the then Chief Executive of UK Sport John Steele, and Minister of Sport Richard Caborn in the Mission 2012 UK Sport press release of 08 May 2007, see pages OB325 and OB326, given the unprecedented level of public investment that was to

be made in Olympic and Paralympic sports during the London cycle ahead of the 2012 Games.

14. Mission 2012 encourages rigorous self assessment as the process tracks the overall status of NGBs against their own sporting performance ambitions. It does so by requiring an honest and open analysis of each NGBs progress in respect of the three “Dimensions” of success: The Athletes, The System and The Climate. Definitions of the dimensions can be found at Exhibit PK3 under the heading “How does Mission 2012 work?” which is an extract from a document entitled “A Guide to UK Sport” (produced in September 2009) and provides an overview of Mission 2012.
15. Three submissions (update reports) are made by each NGB in the annual cycle. These capture new issues identified or updates on previously reported ones arising from their analysis using the Elements component of the process. This in turn informs their judgement of the status of each of the three dimensions of their sport. An appointed Mission 2012 panel, comprising of senior UK Sport staff and external independent experts review the submissions. They scrutinise the action plans proposed and offer advice on strategies to improve performance. They also have the authority to challenge the traffic light status a sport has given to either its overall status or the three dimensions, all of which are reported publically. I refer to Exhibit PK4 which sets out the current template panel member agreement and contains obligations on panel members to keep Mission 2012 information provided to them confidential.
16. After each submission UK Sport publishes a 50 word summary on sports progress against the NGBs performance ambitions and the traffic light colour against each Dimension which appear on a Mission 2012 tracker board located at UK Sport offices. The tracker board lists each sport funded by UK Sport. It records the outcomes of each Mission 2012 review and thus shows how each sport, and the overall mission is progressing. There are separate tracker boards for Olympic and Paralympic sports.
17. Between May 2007 and October 2007 UK Sport entered into an extensive trialling and consultation process on Mission 2012 proposition to ensure there was clarity on its purpose and how it would operate. Initial design discussions occurred with leading Performance Directors (a Performance Director is the individual recognised as having overall responsibility for an NGB’s sports performance programme), which resulted in the process being piloted with two leading sport NGBs over the Summer of 2007, one of which was UKA. Following revisions a final set of proposals was presented at three open forum meetings for Chairs, CEO’s and other senior staff of all funded NGBs held in different locations across the country. At each meeting, a detailed presentation outlining the process was made. The topic that generated the greatest number of questions was the degree of confidentiality necessary should sports choose to disclose detailed

performance information at what the system defines as “Element Level”. The Element Level is a separate strand or topics that sit under each Dimension and against which NGBs provide information in their quarterly Mission 2012 submissions.

18. We (UK Sport) reassured attendees that Mission 2012 was clearly designed to provide significantly better public reporting of progress at an overview level but also to protect sensitive information particularly where this was felt to offer advantage to competitor nations. Central to this point was our intention that such information would only be shared internally with other NGB’s and then only with the explicit permission of the originating NGB. I refer to Exhibit PK5 which is a slide from the Mission 2012 Stakeholder Briefing presentation. The first bullet point clarifies that this level of detailed reporting was not an obligatory requirement. The reassurance given to sports at these meetings that Element Level information would not be put into the public domain without their consent was therefore critical to our relationship with the sport and the success of the Mission 2012 initiative.
19. A final undertaking given at the consultation meetings was that the first submitted report (in November 2007) from NGBs under the Mission 2012 system would be treated as a trial, and that no outputs, including the overall and Dimension traffic lights and summaries would be published as it was clear that this needed to be carried out as an initial trial/learning exercise for both parties. This reflected the degree of cultural shift we (UK Sport) were seeking and the increased visibility that would arise from frequency and style of reporting.
20. In summary from the outset there was a very clear and agreed understanding with NGBs that any detailed, performance-sensitive information given in their Mission 2012 submissions (Element Level) will not be disclosed without an NGB’s permission. Confidentiality, with respect to performance-sensitive, highly specific and often personal information, was one of the key principles under which NGBs agreed they would participate in Mission 2012, and upon which trust and an open dialogue would be built.
21. UK Sport confirmed its commitment to confidentiality within its Consultation Response in October 2007 which is provided at OB328, paragraphs 5 and 6 of that page and also page OB332 where we (UKs) provide specific undertakings are provided on public reporting of Mission 2012. The third bullet point under the heading Public Reporting at page OB332 clearly states;  
“No further information, such as that contained with the Reporting Template or Profiling Tool, will be put in the public domain.”

22. The Reporting Template or Profiling Tool was the initial template document provided to NGBs to help them complete their submissions. It is UK Athletics' submissions for Quarter 4 November 2007 and Quarter 1 2008 that I understand is the subject of the FOIA request made by Mr Zacharides ("the Disputed Information").
23. The position on confidentiality and public reporting is consistent with the letter from the Chief Executive of UK Athletics, Niels de Vos of 30 April 2010 which can be found at page OB213 on his understanding of Mission 2012.
24. This understanding was embedded within the handling by UK Sport of Mission 2012 submissions and information for example: all documents are shared on a "need to know" basis between staff involved in Mission 2012 at an appropriate level within UK Sport; all electronic information is stored in folders that have restricted access; hard copy information is stored in cupboards that are locked; and distributed securely by courier to Mission 2012 panel members. As stated earlier in my statement at paragraph 15 Panel members are also placed under a duty of confidentiality through their panel member contracts (see Exhibit PK4).
25. Early in 2008 UK Sport formally announced the start of Mission 2012 process.
26. I was aware from the outset that due to the nature of the information that we could hold under Mission 2012 there could be interest from the media and public in this information and approaches could be made to have it disclosed under the FOIA.
27. In early 2008 I consulted with our Freedom of Information Officer, Peter Smith, to address the concerns between the FOIA and the need to maintain confidentiality within Mission 2012. We consulted with external lawyers and agreed that we request a meeting with the Information Commissioner's Office.
28. As a result Peter Smith, our external lawyer, Sally Jones, Partner at the firm Hammonds LLP met with the Information Commissioner's Office on 30 May 2008 with myself and Liz Nicholl, (Director of Performance at the time) joining by telephone. We met with the Assistant Commissioners for Freedom of Information and Data Protection.
29. Since March 2009 we have also formalised the confidentiality arrangement with all funded NGBs by entering into confidentiality agreements to cover the information passed between UK Sport and NGBs including through Mission 2012. This was to coincide with new funding cycle 2009 – 2013 and the issue of new funding agreements to NGBs. It neither was nor is intended to be a backward facing document in any way. A template

copy of the agreement can be found at pages OB369 to OB372. The signed copy of the UK Athletics confidentiality agreement can be found at CB32 to CB34.

30. As with all new policies and programmes, since its inception Mission 2012 has been evolving. We have invested in developing secure IT systems for the submission of Mission 2012 updates, the storage of best practice insights and the management of action plans to address identified problems. Access to this system is limited to UK Sport staff directly involved in Mission 2012 only.
31. Access to, disclosure and dissemination of Mission 2012 information within UK Sport is kept to a minimum. Of UK Sport's 95 staff, approximately 15 staff (including myself) are directly involved in the Mission 2012 process. Staff are bound by and reminded of confidentiality within their employment contracts. The need for confidentiality within UK Sport has recently been reinforced with an updated comprehensive Information, Data Security and Communications Systems Policy and Procedure that all staff (including myself) must comply when handling confidential information reflecting the requirements that have been set out under the HMG Security Policy Framework with which UK Sport must now comply.

**Closed Session Evidence**

32. [Redacted]
33. [Redacted]
34. [Redacted]
35. [Redacted]
36. [Redacted]
37. [Redacted]
38. [Redacted]
39. [Redacted]
40. [Redacted]
41. [Redacted]
42. [Redacted]
43. [Redacted]

44. [Redacted]

45. [Redacted]

46. [Redacted]

47. In reference to the Appellant's Reply at pages OB89 – OB111 I would like to address the following issues that fall within my knowledge and would like to clarify:

- a. Paragraph 39 on page OB97, it is incorrect for Mr Zacharides to suggest that the idea of a funded sport taking legal action against UKS as 'laughable'. This has in fact actually occurred. In 2009 British Weightlifting pursued a lengthy legal process against UKS whilst it was in receipt of public funding.
- b. Paragraph 81 on page OB106 there is a misunderstanding about the launch of M2012. On 8 May 2007 UK Sport announced their intention to develop a process that they would call Mission 2012. We then entered an extensive consultation period, including pilot trials, that ultimately resulted in the formal launch coinciding with the first public presentation of the tracker board and summaries in the Spring of 2008.

#### STATEMENT OF TRUTH

I believe the facts stated in this Witness Statement to be true.

Signed:

A handwritten signature in black ink, appearing to read 'P.S. Keen', with a horizontal line underneath.

Peter Keen

Director of Performance

Dated: 09 February 2011