

## External Review - Summary of Review Findings

Sacha Deshmukh was appointed as the Executive Director of the United Kingdom Committee for UNICEF on 14 April 2020 after being recruited by Douglas Alexander and the United Kingdom Committee for UNICEF Board. He resigned on 21 September 2020 and, starting soon afterwards, spent the majority of his notice period on garden leave to 19 October 2020. Douglas Alexander was the United Kingdom Committee for UNICEF Chair from 27 June 2018 until his resignation on 24 September 2020.

Following his resignation on 21 September 2020, Sacha Deshmukh raised issues about the conduct of Douglas Alexander during his time as Chair and about the response and actions of the United Kingdom Committee for UNICEF Board and its members given their knowledge about that behaviour.

Morgan Lewis & Bockius UK LLP was commissioned jointly by the United Nations Children's Fund and United Kingdom Committee for UNICEF to conduct an independent Review into these issues.

### Review Process

- The Review was jointly commissioned on 8 October 2020 by The United Nations Children's Fund and United Kingdom Committee for UNICEF as an independent external review.
- Current and former employees, current and former Trustees and volunteers of United Kingdom Committee for UNICEF from mid-2018 to the date the Review was commissioned were invited to participate in the Review.
- The Review was conducted on a legally privileged and strictly confidential basis so people could contribute openly and with confidence in the process.
- The result was a high level of participation and we found that participants provided information and responses to questions with openness and candour.
- More than 30 people were interviewed over a period of seven weeks and additional information was received from the interviewees and from many others.
- Douglas Alexander and Sacha Deshmukh both participated in the Review and each provided helpful and relevant information.
- The concerns raised about Douglas Alexander's behaviour related to allegations of possible bullying and no wider concerns of improper behaviour were suggested.
- The test applied when assessing that conduct in the Review was: *"Taking into account all known facts and their full context, was the conduct in question oppressive and unacceptable when assessed objectively?"<sup>1</sup>*
- The conclusions were reached after considering on an objective basis all the information received and views expressed.
- The matters within the scope of the Review and the conclusions reached on them are summarised below.

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<sup>1</sup> Lord Justice Maurice Kay in *Veakins v Keir Islington Ltd* [2009, Court of Appeal] stated that courts must consider whether *"...the conduct complained of is 'oppressive and unacceptable' as opposed to merely unattractive, unreasonable or regrettable"*; Lady Hale in *Majrowski v Guys and St Thomas NHS Trust* [2006, House of Lords] stated: *"A great deal is left to the wisdom of the courts to draw sensible lines between the ordinary banter and badinage of life and genuinely offensive and unacceptable behaviour."*

## Review Scope and Conclusions

(i) *Allegations of improper behaviour by Douglas Alexander towards Sacha Deshmukh.*

Sacha Deshmukh has alleged that he was bullied by Douglas Alexander. The allegations relate to events that took place in 1:1 sessions between the two of them, all of which took place remotely after the lockdown that was in place from mid-March 2020 in the UK as a result of COVID-19. These were clearly difficult circumstances for Sacha Deshmukh to join United Kingdom Committee for UNICEF, grappling with the challenges of his new role while operating in a remote environment. During their scheduled weekly calls and other conversations which took place as needed, there were two heated conversations over a five month period. Sacha Deshmukh said he increasingly found Douglas Alexander's manner and conduct during their conversations challenging, which he felt was very difficult and amounted to bullying. Douglas Alexander denies any bullying or improper conduct on his part.

There is no evidence, apart from Sacha Deshmukh's account, that indicated there was bullying behaviour by Douglas Alexander towards Sacha Deshmukh. The evidence received from others and the contemporaneous communications suggest there was a warm and professional relationship between the two of them. The evidence of Douglas Alexander's conduct, viewed objectively, does not amount to bullying. The allegations of improper conduct by Douglas Alexander towards Sacha Deshmukh have not been substantiated.

(ii) *Any allegations of improper behaviour by Douglas Alexander towards other United Kingdom Committee for UNICEF staff during his time at United Kingdom Committee for UNICEF.*

During the period 27 June 2018 to late September 2019, three United Kingdom Committee for UNICEF staff members informally raised issues about Douglas Alexander's conduct. Again, the allegations related primarily to events taking place in 1:1 dealings between those individuals and Douglas Alexander. Apart from some tense moments in a meeting (that was described by attendees as a difficult meeting) where Douglas Alexander's conduct was seen to be assertive and curt, and one occasion where he was seen to have a heated discussion with a senior United Kingdom Committee for UNICEF person, nobody witnessed any behaviour which could amount to bullying. All the events people witnessed and the contemporaneous communications were professional in nature and tone. Douglas Alexander denies any bullying or improper conduct on his part.

The three staff members clearly did experience discomfort in dealing with Douglas Alexander and found his approach upsetting to them. Applying the above test, while Douglas Alexander's manner did cause some discomfort and upset to the three employees, we find that, when viewed objectively, it did not amount to bullying. The allegations of improper behaviour on the part of Douglas Alexander towards other United Kingdom Committee for UNICEF staff members have not been substantiated.

(iii) *Knowledge of the United Kingdom Committee for UNICEF Board and its members and relevant or related parties of any allegations of improper behaviour by Douglas Alexander during his time at United Kingdom Committee for UNICEF.*

No formal complaints about Douglas Alexander's behaviour were made at any time before 23 September 2020.

During the period from 27 June 2018 to the end of September 2019, three United Kingdom Committee for UNICEF staff members informally raised issues about Douglas Alexander's conduct with certain of the Trustees (although there was reference to a fourth person, it is not clear that issues were in fact raised by them). Six Trustees in total (of the eleven Trustees in role during that period) knew there had been some concerns raised by some or all of those three staff members about Douglas Alexander's conduct. The concerns raised did not include allegations of bullying, but did in some cases suggest that the conduct could amount to bullying. What each of those six Trustees knew about the concerns differed, although they knew the issues had been raised in the context of a difficult working relationship between the Board and the Executive Team as a whole during the period in question. The staff members raising the concerns had, on each occasion, insisted that no formal complaint was being made and requested that the matter be kept confidential.

No further concerns were raised to any of the Trustees until 12 August 2020, when Sacha Deshmukh spoke to a Trustee about difficulties he was having working with Douglas Alexander. By the time of Sacha Deshmukh's resignation on 21 September 2020, only four of those six Trustees still remained on the Board (out of a Board of eight Trustees, not including the Chair, at that time). Sacha Deshmukh tried to email one of those four Trustees on 8 September 2020 saying that he felt "*bullied and humiliated*" following a heated exchange with Douglas Alexander on 4 September 2020, but that email was sent from his personal email and was not received by the Trustee. When it was forwarded to the Trustee on 13 September 2020 by Sacha Deshmukh after he and the Trustee had just spoken, he said in the covering email that the earlier email was "*a bit moot now we have spoken*". At that time, the Trustee had already initiated a process to facilitate a dialogue between Sacha Deshmukh and Douglas Alexander following discussions with them both and, in those circumstances and having read the 13 September 2020 email, reasonably concluded that they did not need to read the earlier email. Sacha Deshmukh did not raise further allegations of improper behaviour after that time and his resignation letter did not refer to bullying. As a result, the first time the Board or any Trustee became aware of substantive allegations of bullying by Sacha Deshmukh (or, indeed, any other staff member) was on the morning of 23 September 2020, after Sacha Deshmukh had resigned. An anonymous whistleblowing report in respect of Douglas Alexander's conduct made on 23 September 2020 was also made known to the Board later that day.

The email Sacha Deshmukh sent on 23 September 2020 was treated by United Kingdom Committee for UNICEF as a whistleblowing report. After the conclusion of the Review, we consider it was not a qualifying or protected disclosure under the Public Interest Disclosure Act 1998, as it does not relate to a "relevant failure", and so was not a legally protected "whistleblowing" report. The same analysis applies to Sacha Deshmukh's letter of 25 September 2020, which expressly referred to the Public Interest Disclosure Act.

- (iv) *The United Kingdom Committee for UNICEF Board's or members' and relevant or related parties' actions in light of any such knowledge.*

Each of the six Trustees who were made aware of issues by the staff members in the period from 27 June 2018 to late September 2019 were told that no formal complaint was being made about Douglas Alexander's conduct. No investigation or other substantive action was taken by any of the Trustees, or on behalf of the Board as a whole. Some limited informal actions were taken by the Trustees, but the issues of conduct that had been raised were not fed back more than once, and then on an informal basis, to Douglas Alexander. A 360-degree review that was to be provided to Douglas Alexander, as the Chair, in mid-2019 did not proceed due to an unforeseen (and unrelated) event. Certain of the Trustees felt the review was superseded by a wider Board governance review. In the circumstances, the actions of the Trustees in not taking formal or substantive action were appropriate. It is unfortunate that the Board did not ensure feedback was provided to Douglas Alexander through completing the planned review process.

No issues were raised to Board members or related parties about Douglas Alexander's conduct from October 2019 to 12 August 2020. On that day Sacha Deshmukh spoke to a Trustee about difficulties he was having working with Douglas Alexander. After a heated exchange between them on 4 September 2020, both Douglas Alexander and Sacha Deshmukh separately contacted the same Trustee for guidance about how to approach their relationship with the other (this was the same Trustee to whom Sacha Deshmukh later sent his emails of 8 and 13 September 2020). That Trustee facilitated a meeting between the two of them, with a structured agenda to enable discussion on how they would re-build their working relationship. Sacha Deshmukh did not refer to bullying concerns prior to this meeting or in the course of the meeting the three of them held on 18 September 2020. After 23 September 2020, when Sacha Deshmukh and one anonymous employee made allegations of bullying against Douglas Alexander, the Board's response was to initiate an investigation and, ultimately, to commission this Review. These actions of the Trustees and the Board as a whole were appropriate.

- (v) *Knowledge of and actions of Sacha Deshmukh relating to allegations of improper behaviour by Douglas Alexander towards any United Kingdom Committee for UNICEF staff member, including purported whistleblowing disclosure.*

On 12 August 2020, Sacha Deshmukh raised informally with a Trustee that he was having difficulties working with Douglas Alexander. He told us that at that point he had some awareness of previous allegations made by other staff members, of whom only one remained at United Kingdom Committee for UNICEF at that time. He sent emails dated 8 and 13 September 2020 to the Trustee, one of which contained reference to him feeling "*bullied and humiliated*", but this was not read by the Trustee as explained in (iii) above. He then participated in the facilitated process with the Trustee and Douglas Alexander leading up to a meeting with both on 18 September 2020. He did not raise a formal complaint before resigning on 21 September 2020. He raised two complaints (on 23 and 25 September 2020) relating to Douglas Alexander's alleged conduct towards himself and other staff members, one of which was explicitly stated to be a whistleblowing disclosure. Both of these complaints were treated by United Kingdom Committee for UNICEF as being whistleblowing disclosures. Apart from these steps, Sacha Deshmukh did not take any actions relating to allegations of improper behaviour by Douglas Alexander towards himself or any United Kingdom Committee for UNICEF staff member.

- (vi) *Douglas Alexander's actions following the resignation of Sacha Deshmukh whilst he was still Chair.*

Douglas Alexander's relevant actions following Sacha Deshmukh's resignation and up to the time of his own resignation on 24 September 2020 were limited to the following. He recused himself from sections of Board meetings and participated in other parts, which was appropriate. He was involved with other Trustees in making the decision to summarise the contents of the resignation letter rather than circulate it to the Board on 22 September 2020, which was a reasonable decision at the time in the circumstances, although with hindsight it would have been better to circulate the letter.

On 22 September, the media became aware of the issues surrounding Sacha Deshmukh's resignation and it was necessary for United Kingdom Committee for UNICEF to answer media queries over the following days. Douglas Alexander and another Trustee worked with an external communications firm and the United Kingdom Committee for UNICEF communications team to engage with the media, which included the preparation and release by the external communications firm of a statement on behalf of United Kingdom Committee for UNICEF in response to media enquiries on 23 September 2020. Douglas Alexander provided input into that statement. One aspect (about which Douglas Alexander had no knowledge) of the phrasing of the media statement could have been better worded with hindsight, although it was not inaccurate.

Two news articles published on 24 September 2020 contained a sentence reporting that United Kingdom Committee for UNICEF denied that the resignation was related to bullying allegations. Since it was known by 23 September 2020 that this was likely not the case, this denial would not have been true if it had been made after the link between bullying allegations and the resignation had been made. There is no evidence of Douglas Alexander saying or approving anything that led to it being written. Although it has been suggested that certain other inaccuracies appeared in the media as a result of what the media were told in relation to the issues within the scope of this Review, if there were such inaccuracies, none of these appear to have arisen as a result of anything said to the media by United Kingdom Committee for UNICEF or the external communications firm retained on its behalf.

There is no evidence of Douglas Alexander saying or approving anything that might have led to any inaccurate media reporting on the part of United Kingdom Committee for UNICEF. However, in our view, Douglas Alexander should not have been involved in these media related activities on 23 September 2020 in the circumstances, because of a potential conflict of interest, or at least the risk of a perception of one, between his own position and United Kingdom Committee of UNICEF's best interests.

*(vii) Actions of the remainder of the United Kingdom Committee for UNICEF Board in relation to Sacha Deshmukh's resignation.*

Sacha Deshmukh's resignation took everybody who contributed to the Review by surprise. The Board met in closed session early in the morning on the day following the resignation and in other meetings that week, which was an appropriate course of action in the circumstances. Sacha Deshmukh's resignation letter was not seen by all the Board members at the meeting on the morning of 22 September 2020 and was only seen by the full Board the following morning. The decision made by those who had seen the letter not to circulate the letter and instead to summarise its contents to the members who had not seen it that day was reasonable in the

circumstances, although with hindsight it would have been better for the letter to be circulated on 22 September 2020.

On 22 September 2020 the United Kingdom Committee for UNICEF began to receive media queries and it was clear that a response to the media was needed. Communications to the media were conducted by the external communications firm on behalf of United Kingdom Committee for UNICEF and through a statement approved by United Kingdom Committee for UNICEF, which was given to the media by that firm. As explained in (vi) above, certain media coverage on 24 September 2020 included a sentence that was not strictly accurate. There is no evidence of anybody at United Kingdom Committee for UNICEF saying or approving anything to the external communications firm which led to it being reported in the way it was. One aspect of the phrasing of the media statement could have been better worded with hindsight, although it was not inaccurate. A correction was made to one article at the request of United Kingdom Committee for UNICEF, which was appropriate. As explained in (vi) above, there is no evidence of anything misleading or inaccurate being said to the media on behalf of United Kingdom Committee for UNICEF as a result of what was said or done by Douglas Alexander, the Trustee or United Kingdom Committee for UNICEF Communications team.

Following the receipt of what was treated as a whistleblowing report on the morning of 23 September 2020, Douglas Alexander should in our view not have been permitted to be involved in the exercise of working on behalf of United Kingdom Committee for UNICEF with the external communications firm to handle media coverage. There was a potential conflict of interest, or at least the risk or a perception of one, between his position and United Kingdom Committee for UNICEF's best interests. On 25 September 2020 the Board replaced that firm with another external communications firm.

On 24 September 2020 the appointment of two Interim Joint Executive Directors was announced while Sacha Deshmukh was working his notice period. Sacha Deshmukh's gardening leave should have been confirmed before the Interim Joint Executive Directors were appointed and that announcement was made. His position was confirmed shortly afterwards.

Overall, save for the issues identified above, the Board's actions were appropriate in difficult and fast-moving circumstances in the period that immediately followed the resignation.