Press release: Corporate trustee of The Cup Trust responsible for 'clear misconduct and mismanagement'

The Charity Commission has today published a report of its statutory inquiry into The Cup Trust, a charity involved in a complex tax avoidance scheme, which, if successful, would have resulted in the charity benefiting from gift aid payments from HMRC.

The report details the Commission's findings as to how the tax avoidance scheme was designed to operate, who stood to benefit from it, and its conclusions as to the actions and omissions of the charity's corporate trustee.

The inquiry concludes that the charity's trustee, Mountstar Limited, is responsible for "clear mismanagement and misconduct" and failed to fulfil its legal duties as trustee in entering the charity into the scheme and managing its participation in the scheme.

The report also details failings to address or manage serious conflicts of interest arising from relationships between the corporate trustee and individuals who devised the tax avoidance scheme and had benefited from entering the charity into it and advertising it to tax payers.

During the course of the inquiry, the Commission used its new powers to disqualify both the corporate trustee, and three individuals who served as directors of the corporate trustee, from charity trusteeship under section 181 of the Charities Act.

Harvey Grenville, Head of Investigations at the Charity Commission, said:

> Our inquiry demonstrates beyond doubt that The Cup Trust was misused by the corporate trustee to assist higher-rate tax payers in reducing their tax bills, and earning individuals connected to the scheme lucrative fees. Those personal benefits were far more than incidental and the fact that the charity would, had the scheme been accepted by HMRC, have benefited from gift aid, does not legitimise these intentions or actions.

> Charities rely on the public's goodwill in supporting tax benefits designed to encourage genuine charitable donations. It is right that we take robust regulatory action where trustees' actions abuse that goodwill. It is clear that this charity, through its involvement in an attempted tax avoidance scheme, undermined public

> trust in charity generally. The Commission has learnt from this case: over recent years, we have significantly strengthened our approach to identifying and dealing with risks facing charities, have improved our pre- and post-registration processes and are more proactive and robust in using our legal powers to ensure trustees comply with their legal duties and responsibilities.
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> We have also successfully called for our legal powers to be strengthened to help us better disrupt and stop the abuse and mismanagement of charities. Some of the new powers we asked for and are using are as a direct result of this case.

The Commission first investigated The Cup Trust in 2010, following concerns reported to it about the charity's participation in a tax avoidance scheme. The statutory inquiry was launched in 2013, when the charity's trustee failed to provide information to HMRC regarding its gift aid claims. The regulator then immediately appointed an interim manager (IM), granting the IM all the powers of trusteeship and excluding Mountstar from decision making at the charity.

The report sets out why the inquiry has taken 5 years to conclude, pointing to extraordinary complexity, various legal challenges by the corporate trustee to the Commission's inquiry and its use of legal powers, and the need for the IM appointed to seek High Court approval to withdraw the charity's gift aid applications. The report also makes clear that the publication of the report was delayed due to the diversion of Commission resources in February 2018 to deal with safeguarding matters. The report makes clear that no tax reliefs were ever granted by HMRC to the charity.

The full inquiry report is available on GOV.UK.

Notes to editors

1. The Commission does not administer gift aid: Whether a charity or its donors are lawfully able to claim tax relief and the issue of whether a tax scheme is legitimate or not is determined by HMRC.
2. The Commission's role as charity regulator focuses on ensuring that trustees discharge their legal duties as charity trustees in managing and administering the charity properly and responsibly. Where issues are raised about taxation matters or concerns about the operation of a charity being examined by other regulators, the Commission considers whether they indicate misconduct or mismanagement in the administration of the charity and whether it needs to protect charity property.
3. In the case of the scheme that The Cup Trust entered into, no gift aid payments were ever made by HMRC to the charity.
4. The individuals who acted as directors of Mountstar and have been disqualified from charity trusteeship are Matthew Jenner, Darren Stones and Anthony Mehigan. Their names are on the Commission's register of disqualified and removed charity trustees.

5. The Commission has published guidance on its policy on charity tax reliefs.