

# Press release: Update on Cup Trust Inquiry

- The Charity Commission, in one of the first uses of its new power, has disqualified Mountstar from being a charity trustee
- Mountstar acted as sole and corporate trustee of the Cup Trust
- The Cup Trust has been wound up by the interim managers appointed by the regulator and the Commission removed it from the charity register

The Commission has used its new powers conferred under the Charities (Protection and Social Investment) Act 2016 to disqualify the company, Mountstar (PTC) Limited ("Mountstar"), from being a charity trustee for a period of 15 years. The order, which came into force today (14 June 2017), was made by the regulator as it was satisfied that Mountstar, as trustee, (1) was responsible for misconduct and/or mismanagement in the administration of the charity, (2) was unfit to be a charity trustee and (3) that it was desirable to make the disqualification order in the public interest so as to protect public trust and confidence in charities.

The charity has been wound up by the charity's interim managers, who were appointed by the regulator to administer the charity. The Commission removed the Cup Trust from the register of charities on 26 May 2017. The Commission is also considering regulatory action against the individuals who were directors of Mountstar.

## **Michelle Russell, Director of Investigations, Monitoring and Enforcement at the Charity Commission, said:**

In using this new power to make an order to disqualify this company that we have found is responsible for misconduct and/or mismanagement in administering The Cup Trust, we are sending a strong message to all those whose actions harm charities: that they will be held accountable and that we will protect other charities from those who pose a risk to them.

The Commission was concerned in this case that public trust in charities would be undermined if this charity continued to be involved with a tax avoidance scheme through facilitating a gift aid claim. Arrangements which principally aim to confer advantages to private businesses or individuals with any benefit to the charity being a by-product of the scheme are not consistent with trustees' duties.

Our action in this case is important to protect the trust the public should have in charities. It shows the donating

public that the regulator acts to address wrongdoing and that they can have confidence in a well-run charitable sector.

## **Background**

The Commission opened an inquiry into The Cup Trust on 12 April 2013, following receipt of information from HMRC. The scope of the investigation includes examining the governance of the charity by its trustee, management of conflicts of interest and the charity's involvement in a gift aid scheme and whether or not the trustee had complied with its obligations.

The Commission used its powers to appoint interim managers to administer the charity to the exclusion of Mountstar in April 2013. Once the interim managers had carried out the functions required of them and had withdrawn the charity's Gift Aid claims, they wound up the charity and were discharged. The charity was removed from the register of charities on 26 May 2017. The Commission is continuing with its formal investigation of the charity and will report its findings once this is concluded.

Ends.

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## **Notes to editors**

1. The Charities (Protection and Social Investment) Act 2016 amends the Charities Act 1992 and the Charities Act 2011.
2. A charity trustee is defined under section 177 of the Charities Act 2011 as being one of the persons having the general control and management of the administration of a charity. A trustee for a charity is an individual (or body) who holds land, money or securities for a charity, or in whom the legal ownership of the charity's property is vested.
3. The new discretionary disqualification power in section 181A of the Charities Act 2011 enables the regulator to disqualify a person it considers unfit from being a trustee, for a maximum period of 15 years. Before making an order, the Commission must give at least one month's notice to the person it intends to disqualify. If the Commission goes on to make an order after considering any representations, the order does not take effect until the period for making an appeal to the Tribunal has expired (42 days). If no appeal is made, the disqualification takes effect.
4. The Commission made an order on 3 May 2017 under section 181A of the Charities Act 2011. Having satisfied itself that:
  - Mountstar was responsible for misconduct and/or mismanagement in the administration of the charity at a time when it was the corporate trustee;
  - Mountstar is unfit to be a charity trustee or trustee for a

charity; and

- disqualification is desirable in the public interest to protect public trust and confidence in charities generally, The effect of the order, which came into force today (14th June), is to disqualify Mountstar from being a charity trustee or trustee for a charity in respect of any charity in England and Wales for a period of 15 years. The order also disqualifies Mountstar from holding any office or employment with senior management functions in any such charity for the same period.

5. The [Commission brought a case](#) to the High Court to seek approval of the interim managers' decision to withdraw the charity's claim of £46 million in Gift Aid tax relief. Although challenged by Mountstar, the High Court ruled in April 2016 that the charity could then withdraw the £46 million claim.
6. [The Charity Commission](#) is the independent regulator of charities in England and Wales. To find out more about our work, see our [annual report](#).
7. Search for charities on our [online register](#).
8. Details of how the commission reports on its regulatory work can be found on [GOV.UK](#).