

ACPNS LEGAL CASE REPORTS SERIES

This series compiles short summaries of significant cases involving charitable, philanthropic, nonprofit and social enterprise organisations in Australia and overseas.



Lovelady v Charity Commission for England and Wales [2024] UKFTT 282 (GRC)

First-tier Tribunal (General Regulatory Chamber), McMahon J, Duggal J, Reynolds J, 8 April 2024

A charity trustee sought a review of her removal as a trustee.

Key words: Charity, England and Wales, Trustee, Removal, Private Benefit

1. The trustee was unrepresented.
2. L was a trustee of Muffin Pug Rescue (the Charity).
3. The Charity Commission for England and Wales (the Commission) made an order pursuant to sections 76 and 79 of the [Charities Act 2011](#) (the Act) removing L from acting as a trustee of any charity.
4. The Commission based its order on its finding that:
 - L failed to file accounts information;
 - L failed to comply with various Directions and Orders made by the Commission;
 - L failed to provide information concerning an alleged substantial personal benefit that accrued to her and her family from the Charity's property;
 - There were issues concerning payments made to other trustees of the Charity from Charity assets, and failure to account for the Charity's finances;
 - There was a breach of the Charity's Governing Document and a general failure in the administration of the Charity;
 - There was provision of misleading information to the Commission.
5. L appealed the decision.
6. L had the burden of proof, on the balance of probabilities, that the statutory test to show misconduct or mismanagement on her part was not met, so it was inappropriate to issue a Removal Order, and that making one was not proportionate.
7. The Tribunal found that the charity had less than the required number of trustees, and they were, in fact, L and her son.

8. There were no minutes of trustee meetings, charity funds were used for personal items, and substantial personal benefit accrued to L and her family from using a large property paid for by the Charity as the family residence, rent-free, while L was being paid as a trustee.
9. The Tribunal found that removing L as a trustee was warranted, and that a proportionate action was needed.

COMMENT



The Tribunal commented that (at [18]):

The Appellant did not fully appreciate her roles and responsibilities as a trustee of the Charity and that she, personally, was not the Charity or the embodiment of it even though the Charity was created by her.

This is often referred to as ‘founder’s syndrome’. It relates to the difficulty organisations face where one or more founders maintain disproportionate power and influence following the effective initial establishment of the organisation, leading to a wide range of problems.

VIEW THE CASE



This case may be viewed at: <https://www.bailii.org/uk/cases/UKFTT/GRC/2024/282.html>

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