



**First-tier Tribunal
(General Regulatory Chamber)
Charity**

Appeal Reference: CA/2018/0001

**Heard at Fleetbank House, London
On 21 June 2018**

Before

JUDGE J HOLBROOK

TRIBUNAL MEMBER H CARTER-SHAW

TRIBUNAL MEMBER S REYNOLDS

Between

YUSUF KENAN OGUZ

Appellant

and

THE CHARITY COMMISSION FOR ENGLAND AND WALES

Respondent

DECISION AND REASONS

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DECISION

The appeal is dismissed.

REASONS

Introduction

1. Mr Yusuf Kenan Oguz appeals against an order of the Charity Commission by which he was removed as a charity trustee. That order (“the Removal Order”) is dated 4 December 2017 and was made under section 79(4) of the Charities Act 2011 (“the 2011 Act”). It removed Mr Oguz as a trustee, charity trustee, officer, agent and employee of Save the Needy Worldwide (registered charity 1160579) (“the Charity”). However, by virtue of section 178 of the 2011 Act, the Removal Order also had the effect of disqualifying Mr Oguz from being a charity trustee of any charity, and from holding an office or employment with senior management functions in any charity.

2. The Tribunal’s power to determine this appeal arises from section 319(5) of the 2011 Act and from the relevant entries in the table in Schedule 6 to that Act. In determining the appeal, the Tribunal must consider afresh the Charity Commission’s decision to make the Removal Order. In doing so, the Tribunal may take into account evidence which was not available to the Commission.

3. The appeal was heard in London on 21 June 2018. Mr Oguz represented himself at the hearing and the Charity Commission was represented by Miss Dwyer of counsel. An agreed hearing bundle was provided, which included written submissions and supporting documentary evidence and authorities. Two written statements of witness evidence were also provided and the parties made additional oral and, in the Commission’s case, written submissions.

4. Judgment was reserved.

Factual background

5. The Charity was registered as a charitable incorporated organisation on 20 February 2015. Its objects are:

“To advance such charitable purposes for the public benefit (according to the law of England and Wales) as the trustees see fit from time to time in particular but not limited to: –

The relief of poverty and sickness by the provision of goods/services which they could not otherwise afford through lack of means.

The relief of financial need and suffering among victims of natural or other kind of disaster in the form of money (or other means deemed suitable) for persons, bodies, organisations and the/or countries affected.”

6. The Charity operates by distributing aid in a number of countries, including Turkey (where it assists those affected by the Syrian conflict). Until recently, it had three trustees. Mr Oguz was a trustee from the Charity’s inception until his removal in December 2017. Mr Mahmoud Hatamikia has been a trustee since 6 April 2015, and Mr Eric Lloyd was a trustee from 22 April 2015 until 12 December 2017. The Charity has two other former trustees. It follows that there is currently only one remaining trustee of the Charity; namely, Mr Hatamikia.

7. The Charity was identified for an inspection visit by the Charity Commission in July 2015 because it was newly registered and was operating internationally in areas which the Commission regards as high risk. In addition, however, the inspection visit was prompted by the fact that Mr Oguz had previously held the position of chair of trustees for a charity known as Worldwide Ummah Aid (“WUA”). WUA was the subject of a statutory inquiry being conducted by the Charity Commission and this was seen as an additional risk factor.

8. Following the inspection visit (which took place in September 2015), the Charity Commission identified what it considered to be serious regulatory concerns in respect of a lack of due diligence in relation to the Charity’s partner agencies; poor financial management; lack of records to evidence the end use of charitable funds; and general poor governance. As a consequence, the Commission issued the trustees of the Charity with an action plan on 15 June 2016 (“the Action Plan”), which was designed to improve the management and administration of the Charity and to ensure that the trustees complied with their legal duties and acted in the best interests of the Charity. The Action Plan was issued under section 15(2) of the 2011 Act (the Charity Commission’s general function of encouraging and facilitating the better administration of charities) and it set out a series of actions for the trustees to complete by 15 December 2016, after which time compliance with the Action Plan would be reviewed by the Charity Commission.

9. On 8 July 2016, however, Mr Oguz was stopped en route to Turkey by Ports Officers at Luton Airport. He was subjected to an examination under schedule 7 of the Terrorism Act 2000 and cash in excess of £1,000 was discovered in his luggage. Mr Oguz also had a substantial amount of cash on his person. Under questioning from a financial investigator working for the police, Mr Oguz stated that he had £3,500 cash in his possession, which he described as charitable funds. He explained that the cash had been withdrawn from the Charity’s bank account some days previously and that it was intended for a Syrian refugee school in Gaziantep, Turkey. Nevertheless, the funds (which actually amounted to £3,260 in total) were then seized under the Proceeds of Crime Act 2002 as the investigator was not satisfied that they were from a legitimate source or intended for a legitimate purpose.

10. The Charity Commission was notified of these events by the police and, on 13 October 2016, it opened an inquiry into the Charity under section 46 of the 2011 Act.

11. On 26 October 2016, the Charity Commission issued an order, as a temporary and protective measure, which restricted the Charity's trustees from entering into certain kinds of transactions without the Commission's consent. These included withdrawing charitable funds in cash from the Charity's bank accounts.

12. On 20 January 2017, the Charity Commission made a direction under section 47(2) of the 2011 Act ("the Section 47 Direction"), requiring the trustees of the Charity to provide information and copy documents to the Commission to evidence the steps they had taken to comply with the Action Plan. The Section 47 Direction also required the trustees to provide a response as to why they had apparently failed to comply with their obligations concerning the filing of the Charity's statutory returns. Compliance with the Section 47 Direction was required within 7 days.

13. On 15 February 2017, the trustees provided a response to the Section 47 Direction. The Charity Commission then conducted further enquiries and interviewed the Charity's trustees (including Mr Oguz) on 18 and 19 July 2017.

14. On 1 November 2017, the Charity Commission made an order under section 76(3)(a) of the 2011 Act suspending Mr Oguz as a charity trustee, officer, agent and/or employee of the Charity pending consideration being given to his removal.

15. Having complied with the relevant procedural requirements of the 2011 Act, the Charity Commission made the decision to issue the Removal Order on 4 December 2017. The Order was sent to Mr Oguz, together with a statement of the reasons for making it, on the same day.

16. On 4 January 2018, in the Bedfordshire Magistrates Court, an amount of £3,260 (being the cash seized from Mr Oguz at Luton Airport on 8 July 2016) was forfeited under section 298 of the Proceeds of Crime Act 2000 upon an application by the police. The application was not contested by the Charity.

Statutory criteria for making a removal order

17. Section 79(3) and (4) of the 2011 Act provides as follows:

(3) Subsection (4) applies where, at any time after it has instituted an inquiry under section 46 with respect to any charity, the Commission is satisfied both as mentioned in section 76(1)(a) (misconduct or mismanagement) and as mentioned in section 76(1)(b) (need to protect property etc).

(4) Whether or not it acts under subsection (2), the Commission may of its own motion by order remove any trustee, charity trustee, officer, agent or employee of the charity –

- (a) *who has been responsible for the misconduct or mismanagement,*
- (b) *who knew of the misconduct or mismanagement and failed to take any reasonable step to oppose it, or*
- (c) *whose conduct contributed to it or facilitated it.*

18. The matters referred to in section 76(1)(a) and (b) of the 2011 Act are as follows:

(a) *that there is or has been a failure to comply with an order or direction of the Commission, a failure to remedy any breach specified in a warning under section 75A, or any other misconduct or mismanagement in the administration of the charity,*

and

- (b) *that it is necessary or desirable to act for the purpose of –*
- (i) *protecting the property of the charity, or*
 - (ii) *securing a proper application for the purposes of the charity of that property or of property coming to the charity.*

19. Section 76A of the 2011 Act applies in cases where the Charity Commission has grounds to make a removal order under section 79(4). Section 76A(2) and (3) provides as follows:

- (2) *If in such a case the Commission is also satisfied –*
- (a) *that a particular person has been responsible for the misconduct or mismanagement,*
 - (b) *that a particular person knew of the misconduct or mismanagement and failed to take any reasonable step to oppose it, or*
 - (c) *that a particular person’s conduct contributed to it or facilitated it,*
- the Commission may also take into account the matters mentioned in subsection (3) in deciding whether or how to exercise the power.*
- (3) *Those matters are –*
- (a) *the conduct of that person in relation to any other charity;*
 - (b) *any other conduct of that person that appears to the Commission to be damaging or likely to be damaging to public trust and confidence in charities generally or particular charities or classes of charity.*

20. It is clear from these statutory provisions that the following mandatory criteria must be satisfied before a removal order may be made in relation to Mr Oguz:

1. A statutory inquiry must have been instituted into the Charity;
2. There must have been some wrongdoing in relation to the Charity, involving a failure to comply with an order or direction of the Charity Commission, a failure to remedy any breach specified in a warning under section 75A of the 2011 Act, or any other misconduct or mismanagement in the administration of the Charity;

3. It must be necessary or desirable to act for the purpose of protecting the property of the Charity or securing a proper application for the purposes of the Charity of that property or property coming to the Charity; and
4. Mr Oguz must have –
 - (a) been responsible for the misconduct or mismanagement,
 - (b) known of the misconduct or mismanagement and failed to take any reasonable step to oppose it, or
 - (c) contributed to it or facilitated it by his conduct.

21. Even if the above criteria are satisfied, however, it does not necessarily follow that a removal order should be made. The power to make such an order is a discretionary one and it should therefore be made only if that is appropriate in all the circumstances of the case. In deciding whether it is appropriate to make a removal order, regard may be had to (among other things) the matters referred to in section 76A(3) of the 2011 Act.

The positions of the parties in outline

22. The Charity Commission submits that all of the relevant criteria for making a removal order under section 79(4) of the 2011 Act are satisfied in relation to Mr Oguz and, indeed, that it is appropriate in the circumstances of this case for an order to be made removing him as a trustee of the Charity. In particular, the Commission relies upon the following alleged wrongdoing in relation to the Charity:

- Failure by the Charity's trustees to comply with the Action Plan and, subsequently, with the Section 47 Direction.
- Misconduct and/or mismanagement by Mr Oguz arising from his attempt to take charitable funds to Turkey in cash on 8 July 2016.
- Lack of financial controls in relation to the Charity: in particular, misconduct and/or mismanagement in the handling of cash payments and expenses, including the payment of unauthorised expenses to Mr Oguz.
- Failure by the trustees to file the Charity's statutory returns on time.

23. In response, Mr Oguz disputes that there has been any wrongdoing in relation to the Charity or that there has been any misconduct or mismanagement on his part. He submits that the power to make a removal order under section 79(4) of the 2011 Act does not arise in the circumstances of this case and that, in any event, it is inappropriate for such an order to be made.

Findings and conclusions

The mandatory criteria for making a removal order

24. There is no dispute that the Charity Commission has instituted an inquiry under section 46 of the 2011 Act in respect of the Charity. However, it is necessary to consider the other mandatory criteria for making a removal order under section 79(4) in greater detail to ascertain whether the power to make such an order has arisen in this case.

Has there been a failure to comply with an order or direction of the Charity Commission or any other misconduct or mismanagement in the administration of the Charity?

25. We find that:

25.1 there have been failures to comply with orders or directions of the Charity Commission; namely, the Action Plan and the Section 47 Direction; and

25.2 there has been misconduct and mismanagement in the financial affairs of the Charity, and in the failure of the trustees to file the Charity's statutory returns on time.

26. We make these findings for the following reasons:

(i) *Non-compliance with the Action Plan and Section 47 Direction*

26.1 The Action Plan comprised regulatory advice and guidance given to the Charity's trustees by the Charity Commission in the exercise of its general functions. It required the trustees to implement a financial controls policy, particularly to manage the transfer of funds to high risk areas. If they chose not to implement a full policy, the trustees were to give a written response to demonstrate the steps they were taking to ensure compliance with charity law and so that they could fully account for the Charity's income and expenditure. The trustees were also advised to consider implementing a due diligence policy, or other controls to ensure that specific checks were carried out in relation to the Charity's partners or agents. In addition, the Action Plan recommended that the trustees considered entering into memoranda of understanding with external partners, and directed that they should review the Charity's fundraising strategy, as well as its social media and website policy.

26.2 The Charity Commission submits that a review of the trustees' compliance with the Action Plan carried out during 2017 has demonstrated that they failed to comply with the various actions required of them within the prescribed timeframe. Mr Oguz disputes this: referring to the contents of a statutory declaration he provided to the Commission in February 2017 (in

response to the Section 47 Direction), Mr Oguz asserts that the trustees did comply with the Action Plan.

26.3 Notwithstanding Mr Oguz's assertions, we find that the trustees did not materially comply with the Action Plan. No documented financial controls policy was provided to the Charity Commission by the trustees. Nor was a written response provided to demonstrate what steps they were taking to comply with charity law or to fully account for the Charity's income and expenditure. Mr Oguz's assertion that the Charity was "still in its infancy" provides no justification for this failure, particularly given the nature of the Charity Commission's concerns about the management of the Charity's finances (which had previously been communicated to the trustees). We do not agree that the Charity was still in its infancy anyway, and we observe that charity trustees are not excused from the duty to abide by basic principles of good governance just because a charity is newly established. The trustees of the Charity had been given ample time (and guidance) to enable them to put adequate governance arrangements in place, but they had failed to do so.

26.4 Mr Oguz's statutory declaration stated that the Charity "meticulously conducts due diligence checks" in relation to its partners. However, we note that no evidence was provided with the statutory declaration to support this assertion. Nor has any such evidence been provided subsequently. Such due diligence checks as were carried out appear to have been inadequate in the circumstances. Moreover, there is no evidence (beyond further unsupported assertions in the statutory declaration) to indicate compliance with the Action Plan's requirements concerning memoranda of understanding with the Charity's partners or the review of its strategies or policies.

26.5 As far as compliance with the Section 47 Direction is concerned, Mr Oguz argues that the seven-day deadline for responding to the Direction gave the trustees insufficient time to collate the necessary information and to respond to the Charity Commission. Mr Oguz's solicitors had requested an extension to this deadline, but this was refused by the Commission. In the event, a response to the Section 47 Direction was not provided until 15 February 2017.

26.6 The Section 47 Direction certainly required the trustees to respond to the Charity Commission within a very short timeframe. Nevertheless, given that the Action Plan should have been completed by mid-December 2016 anyway, most of the information needed in order to respond to the Section 47 Direction should have been readily to hand in January 2017. The fact that Mr Oguz may have been overseas when the Direction was given should not have prevented the other trustees from making a substantive response to the Charity Commission in his absence.

(ii) *Serious financial misconduct and mismanagement*

26.7 Mr Oguz accepts that, on 8 July 2016, he attempted to pass through Luton Airport en route to Turkey carrying £3,260 of the Charity's money in cash. There is no dispute that the cash was seized by Ports Officers and that it has subsequently been forfeited under the Proceeds of Crime Act 2000. It appears that the intention of the Charity's trustees had been that this money would form part of a £7,000 payment for a Syrian refugee school in Gaziantep – and we note that, when he was stopped by Ports Officers, Mr Oguz was also in possession of cash withdrawal receipts from Barclays Bank showing that £7,000 had been withdrawn from the Charity's bank account on 6 July 2016 (as well as £350 which had apparently been intended for use as travelling expenses).

26.8 Mr Oguz defends his actions in this regard. He says that, at the time of his trip, the Charity did not have the necessary arrangements in place in Turkey to enable funds to be transferred electronically. It was also necessary for Mr Oguz to travel with cash in order to be able to make cash payments to contractors working on the school. He thought that it was lawful to take this amount of cash out of the UK because it was below the threshold for declaring international cash transfers. Nevertheless, being mindful of the risks of the cash being discovered and stolen whilst in transit, Mr Oguz had divided it between his person and his luggage in order to minimise the risk of loss. Mr Oguz also defends his actions on the basis that the other trustees of the Charity had been fully aware that he intended to travel with the cash and, indeed, had approved the proposed payments for the school at a trustees meeting.

26.9 Notwithstanding the explanations offered by Mr Oguz, we share the Charity Commission's serious concerns about his actions in this regard: not only did Mr Oguz place a significant amount of charity money at risk of loss by attempting to take it overseas in cash, but that risk in fact materialised and it has resulted in the permanent loss of the money to the Charity following the making of the forfeiture order. We are not persuaded that there was any necessity for the money to be transferred in cash: we note that a further £3,500 was transferred electronically to the Charity's agent in Turkey only a few days after the cash seizure at Luton Airport, and Mr Oguz has not offered a credible explanation as to why the initial payment could not have been transferred in the same way.

26.10 The fact that Mr Oguz's fellow trustees may have been aware of his intentions (and, indeed, may have agreed to them) does not absolve the trustee body collectively – or any of the trustees individually – from blame. Mr Oguz, in particular, should have been aware of the substantial risks which his actions posed, if for no other reason, because he had had previous experience of what could go wrong when travelling with large amounts of cash. We note that, on 10 March 2014, when Mr Oguz was a trustee of WUA, he had been stopped by Ports Officers at Heathrow Airport and £12,100 of WUA's money (which Mr Oguz had been carrying in cash) was seized, and was subsequently forfeited,

under the Proceeds of Crime Act. It appears that Mr Oguz had not made the other trustees of the Charity aware of these events when they agree to his trip to Turkey July 2016. In any event, however, it should have been immediately obvious to Mr Oguz that his actions put Charity funds at very real risk of loss. We consider that, by embarking upon his ill-fated journey in the face of this risk, Mr Oguz was guilty of misconduct.

26.11 This misconduct arises not from the lawfulness or otherwise of what Mr Oguz was attempting to do, (or even from the fact that the cash concerned was ultimately lost to the Charity), but rather from the unjustified risks that Mr Oguz took with the Charity's money. His misconduct is compounded, not only by his previous experience with WUA in 2014, but also by the fact that he disregarded advice in the Action Plan specifically advising the trustees that personally carrying charitable funds in cash was a high-risk activity and posed risks to those funds and to the individual carrying them. It was also a known tactic used by criminal and terrorist groups and this placed the funds at risk of being seized by the authorities and ultimately lost to the Charity. As it turns out, this was a prescient warning.

26.12 In addition, we note that, during his interview with the Charity Commission in July 2017, Mr Oguz accepted that he had received unauthorised payments from the Charity to cover car insurance, MOT, road tax, parking tickets and other expenses, including petrol, relating to his own vehicle which expenses were not incurred exclusively as a result of Charity business. We gather that, to date, Mr Oguz has not repaid the amounts in question and we consider this to be further misconduct.

(iii) Lack of financial controls

26.13 We heard evidence that, between January 2015 and September 2016, a total of £43,959.09 was withdrawn in cash from the Charity's bank account. During interviews conducted as part of the Charity Commission's inquiry, the other trustees stated that they had been unaware that this amount had been withdrawn in cash and explained that Mr Oguz was solely in charge of the financial management of the Charity. Further cash withdrawals of more than £5,500 were made in the period following the date on which the Action Plan was issued by the Commission, notwithstanding warnings in the Plan about the dangers of transacting in cash.

26.14 Worryingly, the Charity does not appear to have a financial controls policy (even though the Action Plan required the trustees to put one in place) and an analysis of the Charity's income and expenditure carried out by the Charity Commission's accountants notes that expenditure in excess of £87,000 (that is about 75% of the total) is unaccounted for. In addition, charitable costs disclosed in the Charity's statutory returns include costs that would not generally be considered charitable (such as bank charges and entertaining).

26.15 We accept that the Charity *has* spent substantial sums on good causes – and Mr Oguz offered photographic evidence of examples of the Charity’s work. Nevertheless, the maintenance of adequate and transparent accounting records to show what has become of the Charity’s money is a fundamental plank of good governance and it goes to the heart of the functions of a charity trustee. Mr Oguz assured us that all expenditure made on the Charity’s behalf has been sanctioned by the Charity’s trustees at regular trustees meetings. Beyond this, however, Mr Oguz was unable to offer any evidence or assurance as to the Charity’s accounting practices and, indeed, it would appear that those practices are virtually non-existent. Very considerable amounts of the Charity’s money cannot properly be accounted for, and we consider this to be a stark and serious example of mismanagement.

26.16 By way of an example, reference has already been made to the fact that £7,000 was withdrawn in cash from the Charity’s bank account in early July 2016 for the Syrian refugee school in Turkey. However, there is an unexplained discrepancy of £240 between the amount of cash withdrawn and the amounts which were either seized at Luton Airport or later transferred electronically to the Charity’s agent in Turkey.

26.17 The above indicates a serious disregard for, and/or a lack of understanding of, the importance of proper financial controls and accountability in respect of the Charity’s funds and we therefore consider that it amounts to a clear case of misconduct and mismanagement.

(iv) Late filing of statutory returns

26.18 The evidence clearly indicates that the Charity’s trustees have failed to comply with their statutory obligations in this regard. The Charity’s accounts, annual report and annual return for the financial year ending 31 December 2015 were filed with the Charity Commission 77 days and 51 days late. It does not appear that the Charity Commission ever received a request for an extension to the 10 month statutory timeframe for filing the Charity’s statutory returns, but Mr Oguz has since told the Commission that the reason for the late filing was that the trustees wanted to file their accounts with the Commission and Companies House at the same time. It remains unclear why the trustees wished to do this (or, indeed, why they considered it necessary to file dual sets of returns anyway). In any event, it is clear that no extension was granted to the filing deadlines required under the 2011 Act and that the trustees failed to meet the required deadlines.

Is it necessary or desirable to act for the purpose of protecting the property of the Charity or securing a proper application for the purposes of the Charity of that property or property coming to the Charity?

27. The wrongdoing that has been identified in relation to the Charity (in particular, the misconduct and mismanagement in relation to its financial management) is not a one-off or isolated incident: it arises from numerous failures by the trustees – both collectively and individually – to discharge their fiduciary duties effectively or to safeguard the Charity’s funds against unnecessary risk. Nor is the harm which has resulted from those failures trivial in nature: thousands of pounds of the Charity’s money have been lost to the Charity by reason of the trustees’ failings, and many thousands of pounds more cannot properly be accounted for.

28. It is plain that, unless action is now taken to protect the property of the Charity, further such losses may occur in the future. We have little or no confidence that, without regulatory intervention, the management of the Charity will improve in recognition of previous mistakes. We note, for example, that Mr Oguz appears to have continued transacting in cash on the Charity’s behalf even after the Charity Commission issued the Action Plan and after the Charity’s funds had been seized at Luton Airport. Mr Oguz has shown no recognition of the need for the Charity to keep better financial records. Nor has he repaid the expenses which he wrongly claimed from the Charity. In the circumstances, therefore, we consider it to be both necessary and desirable for such regulatory intervention to occur.

To what extent is Mr Oguz responsible for the wrongdoing in question?

29. Although the other trustees of the Charity should not be absolved from responsibility for the failings identified above, it is plain that primary responsibility for the acts and omissions in question rests with Mr Oguz. Even where he was not solely responsible for aspects of the wrongdoing (such as the failure to respond to the Section 47 Direction or to file statutory returns on time), Mr Oguz contributed to them to a significant extent.

30. In respect of the seizure of funds at Luton Airport (as well as other cash transactions on behalf of the Charity), Mr Oguz has defended his actions on the basis that they were done with the prior approval of his fellow trustees. However, such approval does not excuse the unjustified risks Mr Oguz then took with the Charity’s funds. Mr Oguz well understood those risks by virtue of his previous experience with WUA. However, it seems that he omitted to warn the other trustees about them, and this omission undoubtedly increases Mr Oguz’s responsibility for subsequent events.

31. In practice, Mr Oguz had sole control of the Charity’s bank account and it is the manner in which he has administered the Charity’s finances which has led to an inability to account properly for its expenditure. Mr Oguz was also responsible for the payment of unauthorised benefits to himself (which have not yet been repaid).

The exercise of discretion

32. It follows from all of the above that we are satisfied that the mandatory criteria for making a removal order are satisfied. The Tribunal must therefore consider whether, as a matter of discretion, it is appropriate for such an order to be made in the circumstances of this case.

33. Taking account of: (i) the seriousness of the wrongdoing identified in respect of the Charity; (ii) the harm already caused to the Charity; (iii) Mr Oguz's responsibility for these matters; and (iv) the risk of further harm to the Charity arising from possible further misconduct and mismanagement in the event that a removal order is not made, we conclude that it is indeed appropriate for an order to be made removing Mr Oguz as a charity trustee.

34. The Charity Commission has established that various wrongdoing has occurred in respect of the Charity, ranging from the late filing of statutory returns to serious financial misconduct and mismanagement. In addition, there have been failures to comply with the Action Plan and with the Section 47 Direction. Some of the acts and omissions in question are less serious than others and, if viewed in isolation, not all of them would necessarily merit the making of a removal order. On the other hand, however, some of the misconduct and/or mismanagement is so serious that, in our view, it alone makes a removal order appropriate in this case. The acts and omissions described above under the headings 'serious financial misconduct and mismanagement' and 'lack of financial controls' fall into this second category – and these are matters for which Mr Oguz must accept primary responsibility. When these matters are considered alongside the other failings which have been catalogued above, the case in favour of making a removal order becomes compelling. That case is further bolstered by the fact of Mr Oguz's previous similar misconduct in respect of WUA, which we consider it appropriate to have regard to when deciding whether the discretionary power should be exercised in the present case.

35. In our view, the need to safeguard the property of the Charity against further possible harm, coupled with the desirability of enhancing the accountability of charities and increasing public trust and confidence in them, justifies the making of a removal order in this case, and this justification is not outweighed by the negative consequences that such an order will have for Mr Oguz personally. Mr Oguz's continuing apparent failure to recognise the risks to which his favoured ways of working expose the Charity is such that, notwithstanding his many years of involvement in the charity sector, he should not be permitted to act as a trustee of the Charity or to hold another senior position of responsibility in relation to it. We do not accept Mr Oguz's argument that his removal will affect the Charity adversely (because, in effect, it may leave the Charity rudderless). On the contrary, we consider it to be necessary for the protection of the Charity.

36. In arriving at our conclusion that a removal order should be made in respect of Mr Oguz, we are mindful of the fact that – by virtue of section 178 of the 2011 Act – the

effect of such an order is to disqualify him from being a trustee of (and from holding an office or employment with senior management functions in) any charity. We have considered whether this is appropriate and we have concluded that it is. We do not consider it to constitute an unjustified interference with Mr Oguz's human rights. Bearing in mind the seriousness of the misconduct and mismanagement in relation to the Charity for which Mr Oguz is primarily responsible, as well as the evidence of previous similar wrongdoing in respect of another charity, it is appropriate that his disqualification should have effect in relation to charities generally.

Disposal

37. We have already noted the Charity's positive contribution to good causes, as well as Mr Oguz's long involvement in charity work – to which he clearly has a deep personal commitment. Although Mr Oguz may no longer play a part in the management of the Charity (and its future viability will be a matter for the Charity Commission to consider as part of its ongoing inquiry), it is our hope that, in the future, Mr Oguz will find a means of contributing to charitable work in a manner which is better suited to his skills and abilities.

38. Nevertheless, for the reasons explained above, Mr Oguz's appeal against the Removal Order must fail and is therefore dismissed.

Signed

Judge of the First-tier Tribunal
Date: 20 July 2018