



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

Tribunal Reference: CA/2018/0015
Appellant: Paul Kelly
Respondent: The Charity Commission for England and Wales
Judge: Jonathan Holbrook

CASE MANAGEMENT NOTE

1. I consent to the withdrawal of this appeal.
2. On 15 November 2018, the Charity Commission made an order (“the Order”) under section 84B(2) of the Charities Act 2011 directing Console Suicide Prevention Limited (“the Charity”) to wind up and dissolve the Charity, and to transfer any remaining assets to a charity with similar objects. The Order was addressed to the Charity as a body corporate.
3. On 27 December 2018, the Tribunal received a Notice of Appeal by which Mr Paul Kelly sought to appeal against the Order. Mr Kelly is (or was then) a trustee of the Charity.
4. In the meantime, however, the trustees of the Charity evidently took steps to comply with the Order and, on 22 February 2019, the Charity was removed from the register of charities on the ground that it had ceased to exist. It has also been dissolved as a limited company by Companies House.
5. The Charity Commission applied for the appeal to be struck out on a number of grounds: in particular, that Mr Kelly had no right to appeal in his capacity as a trustee; that the Charity itself can no longer be substituted as the appellant; and that the appeal is misconceived in any event.
6. Following Mr Kelly’s initial response to the Charity Commission’s strike out application, I invited him to provide further clarification in relation to a number of

specific questions. In reply, Mr Kelly appears to accept that this appeal cannot now proceed. I have therefore treated his reply as a notice of withdrawal, to which I am willing to consent. Nevertheless, the following explanatory observations may be of assistance to Mr Kelly.

7. Where an order made under section 84B(2) of the 2011 Act directs a person to take action specified in the order, an appeal may be made by (and only by) “any person who is directed by the order to take the specified action”. In the present case, that person was the Charity: although section 84B(2) gives the Charity Commission power to direct charity trustees to take action, it also envisages that such a direction may be addressed to the charity itself, if it is a body corporate. It follows that Mr Kelly himself has no right to appeal against the Order. In addition, given that the Charity has ceased to exist (and has thus been removed both from the register of charities and from the register of companies), the appeal cannot now be pursued in the Charity’s name.

8. It follows that, had Mr Kelly not withdrawn the appeal, I would have had no alternative but to strike it out on the ground that the Tribunal does not have jurisdiction in relation to the proceedings.

9. I note that Mr Kelly remains concerned that the Charity Commission’s statement of reasons for making the Order contained matters which, in his opinion, are factually incorrect and which could potentially cause reputational damage to the trustees and others. In the present circumstances, however, the Tribunal has no power to examine Mr Kelly’s concerns in this regard. That would have been the position irrespective of whether the appeal was withdrawn.

10. By the Tribunal granting consent to withdraw, these proceedings have now come to an end.

Signed: J W HOLBROOK
Date: 1 March 2019

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