

Statutory inquiry report:
Lough Neagh Rescue Ltd
Registered charity number NIC101051

20 January 2015

Updated November 2018



Report on the results of a statutory inquiry, instituted by the Charity Commission for Northern Ireland under section 22 of the Charities Act (Northern Ireland) 2008, into Lough Neagh Rescue Ltd.

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Section 1: Introduction

The inquiry report

1.1 The Charity Commission for Northern Ireland (“the Commission”) categorises its investigations as self-regulatory, regulatory and statutory, depending on the risk posed to the charity beneficiaries, the charity and the sector. These terms are indicative of potential outcomes whereby a charity may be encouraged to self-regulate, may be issued regulatory guidance or where, due to the severity of risk assessed, it is envisaged there may be a requirement for the use of statutory powers assigned to the Commission by virtue of the Charities Act (Northern Ireland) 2008. More information can be found on our website:

www.charitycommissionni.org.uk/our-regulatory-work

1.2 Following extensive engagement with charity representatives, the Commission opened a statutory inquiry into the charity Lough Neagh Rescue Ltd, under section 22 of the Charities Act (Northern Ireland) 2008, on Friday 3 May 2013. The Commission’s inquiry was focussed on addressing concerns about the historic administration and governance of the charity.

1.3 This statutory inquiry report provides an overview of the Commission’s investigations, findings, actions and recommendations pursuant to that inquiry. This report does not detail every issue identified or action undertaken in relation to the investigation into Lough Neagh Rescue Ltd for the following reasons:

- A range of relevant material and conclusions have already been made publicly available as a result of appeals to the Charity Tribunal in relation to the inquiry.
- Some material was not considered by the Tribunal, therefore remains untested and, in some cases, is disputed by some of those involved.
- Some matters may be, or have been, subject to separate investigation, proceedings or consideration by bodies such as the Police Service of Northern Ireland (PSNI), Public Prosecution Service (PPS), Information Commissioner’s Office

(ICO) and Equality Commission, and therefore it would not be appropriate for the Commission to comment.

1.4 In providing an overview of the inquiry, the report aims to address concerns submitted to the Commission in relation to Lough Neagh Rescue Ltd in January 2012 and the resulting Commission investigation, which revealed other matters of concern. In addition, the report aims to highlight more general observations on good governance and best practice which will assist and support all charities.

The charity

1.5 Lough Neagh Rescue Ltd (the 'charity'), provides a volunteer rescue service on Lough Neagh, the largest lake in Northern Ireland, on behalf of statutory bodies such as the PSNI and HM Coastguard.

1.6 The charity was set up in 1989 at Kinnego Bay in Lurgan with significant support from Craigavon Borough Council¹, later expanding to establish another station at Ardboe in Dungannon and a third station at Antrim.

1.7 The charity incorporated as a limited company on 26 February 1996 by memorandum and articles of association. The articles of association were amended by special resolution of the company on 3 September 2013.

Background to the inquiry

1.8 On 18 January 2012 Mr Trevor McKee, Company Director/Charity Trustee and five other members of the charity, Mr Joseph Hughes, Mr Gregory Burke, Mr Robert Orton, Mr Michael Savage and Mr Michael McGivern, approached the Commission to voice a number of concerns about the governance and administration of the charity.

1.9 The concerns submitted related to the conduct and outcome of an Annual General Meeting ('AGM') held by the charity at the Antrim Civic Centre on 20 December 2011 and conduct of the Board of Trustees during the preceding period.

¹ Now part of the Armagh City, Banbridge and Craigavon Borough Council

1.10 Having assessed the concerns received, the Commission identified that an internal dispute involving two distinct groups of members was ongoing within the charity. This dispute had been exacerbated by historic poor record keeping and a lack of compliance or adherence to the charity's articles of association and/or company and charity law.

1.11 It is important to note that the Commission has a general policy of non-intervention in internal disputes. However, the Commission retains discretion to intervene on a case-by-case basis where, for example, there is evidence of misconduct or mismanagement which puts the charity's assets, beneficiaries, integrity and reputation at risk.

Section 2: Executive summary

2.1 The Commission investigated concerns submitted by Mr Trevor McKee, Company Director/Charity Trustee and five other members of the charity, Mr Joseph Hughes, Mr Gregory Burke, Mr Robert Orton, Mr Michael Savage and Mr Michael McGivern and was content that there was either no substance to the issues raised by them, or that the issues did not warrant further action.

2.2 However, on consideration of the documents and information provided the Commission considered that a full investigation was required.

2.3 This decision was made due to the serious issues identified during the investigation of the governance of the charity whilst under the chairmanship of Mr McKee and subsequently. These included freezing the charity's bank account, attempts to divert assets, restriction of access to a lifeboat, removal of collection tins and actions to undermine the charity's Board.

2.4 Those issues, combined with the actions of Mr McKee and others in 2012 and 2013, were investigated in further detail and led to the Commission finding what it considered to be sufficient evidence to warrant ordering the removal of Mr McKee, Mr McGivern, Mr Hughes, Mr Savage, Mr Burke and Mr Orton from positions within the charity.

2.5 Those orders for removal were subsequently appealed to the Charity Tribunal. The appeals and associated findings of the Charity Tribunal are published on their website: [www.courtsni.gov.uk/en-GB/Judicial%20Decisions/Charity Tribunal Decisions](http://www.courtsni.gov.uk/en-GB/Judicial%20Decisions/Charity_Tribunal_Decisions)

2.6 The Commission withdrew its opposition to the appeals in relation to the removal of Mr McGivern, Mr Hughes, Mr Savage, Mr Burke and Mr Orton on 28 March 2014, having reviewed its own position and that of the charity. The Commission was content that the charity had developed its governance and was in a better position to manage its membership internally. However the removal of Mr McKee was still considered appropriate.

2.7 Mr McKee's appeal against his removal as a trustee was rejected by the Charity Tribunal, which detailed eleven separate counts of mismanagement in relation to Mr McKee and concluded that:

"unless Mr McKee is removed from office, there will be further conflict and disharmony in the management of the Charity, which will interfere with the proper application of the Charity's property."²

2.8 Mr McKee is therefore disqualified from being a charity trustee for any charity within the United Kingdom.

2.9 The Commission considers that, following the removal of Mr McKee, the charity is now being managed effectively and complying with its governance obligations. Lough Neagh Rescue Ltd is now registered as a charity with the Commission. The Commission's inquiry is now closed.

² Trevor McKee; Gregory Burke; Michael Savage; Joseph Hughes; Michael McGivern and Robert Orton v the Charity Commission for Northern Ireland NICT 2/13 3 July 2014, page 59, paragraph 185

Section 3: Statutory inquiry and findings

3.1 For ease of reference, a table of what are considered to be the key events and chronology relevant to the Commission’s statutory inquiry and its engagement with Lough Neagh Rescue Ltd is detailed below.

Date	Key event
20 December 2011	Interim Board elected to charity (includes Mr McKee).
28 December 2011	A rival Company was established at Companies House ³ .
18 January to 17 October 2012	After submission of concerns, the Commission requested, and both groups submitted, evidence and held face-to-face meetings with the Commission.
18 October 2012	The Commission determined membership of the charity at request of both groups by virtue of section 50 of the Charities Act (Northern Ireland) 2008.
December 2012	Mediation by third party between groups rejected by Board of charity due to estimated cost.
January 2013	Reconciliation proposal from charity Board rejected by Mr McKee and various members
March 2013	Interim Board obtains over 50% of members’ support in petition to compel AGM.
9 April 2013	Charity holds AGM, new Board elected includes Mr McKee. The Commission and stakeholders observe meeting, the Commission also observed members’ invites being dispatched in advance of AGM.
3 May 2013	Commission institutes statutory inquiry and issues a direction to Mr McKee to provide financial information.

³ Lough Neagh Search and Rescue Antrim NI610516 incorporated on 28 December 2011 and dissolved on 15 August 2014. List of Officers available on Companies House.

Date	Key event
4 July 2013	Charity Tribunal rejects application for review by Mr McKee in relation to opening of the section 22 inquiry and direction for information.
15 August 2013	Following notification and consideration of representations, the Commission orders Mr McKee's removal as a trustee.
3 September 2013	Charity holds EGM (extraordinary general meeting) and passes a special resolution to amend articles of association (as approved by the Commission under section 96 of the Charities Act (Northern Ireland) 2008).
25 October 2013	Following notification and consideration of representations, the Commission orders the removal of Mr McGivern, Mr Hughes, Mr Savage, Mr Burke and Mr Orton as officers, agents and members of the charity.
December 2013	Charity completes filing of accounts with Companies House for years 2011-2012 and 2012-2013.
12 March 2014	Charity reaffirms membership by introduction and acceptance of new code of conduct.
8 April 2014	Charity holds AGM and a Board is elected under new articles of association, including representatives for newly established Antrim station.
3 July 2014	Following submission of appeals, Charity Tribunal publishes findings in relation to appeals lodged by Mr McKee, Mr McGivern, Mr Hughes, Mr Savage, Mr Burke and Mr Orton

3.2 Given the seriousness of the issues identified for the charity and the potential impact on its beneficiaries, the Commission opened a statutory inquiry into Lough Neagh Rescue Limited on 3 May 2013.

3.3 The purpose of the inquiry was to resolve historic administration and governance issues, which were impacting on the ongoing management of the charity. The charity's bank account remained frozen, its accounts were overdue filing, bogus social media pages controlled by Mr McKee continued to mislead the public and stakeholders as to the status and activities of the charity, and significant potential funding for a new station at Antrim was still withheld and at risk.

3.4 The inquiry identified the following key issues.

- Disciplinary policies compiled by trustees in 2010 had not been formally adopted, but were in use, albeit selectively, by some parties. These policies appeared to attribute powers that are not held by trustees, and a number of decisions relating to dismissal of members of the charity during 2011 were deemed unsafe.
- Charity membership records were not maintained in accordance with Company Law.
- Minutes for Board meetings were produced and distributed, but trustees did not as a rule endorse or reconcile those minutes properly at the commencement of the subsequent meetings, leaving themselves open to later dispute and re-interpretation of what had occurred, been agreed or even discussed..
- A culture of rivalry between the charity's stations was allowed to evolve, and indeed may have become a tactic employed by some to the wider detriment of the charity and its beneficiaries.
- Earlier requirement and opportunities to update the charity articles of association were not addressed by trustees, allowing subsequent misinformation about their appetite to establish an Antrim station to be disseminated.

3.5 The Commission identified a number of significant issues which led to the removal of Mr McKee as a charity trustee. These included:

- a) the dismissal of Mr Paul Quinn by Mr McKee (and others) without proper authority
- b) the attempt by Mr McKee to reject assets which might have become available to the charity

- c) the cancellation by Mr McKee of Lough Neagh Rescue Ltd's involvement in charity events
- d) the interference by Mr McKee on sources of income to the charity
- e) the freezing of the charity's bank account by Mr McKee for no good reason
- f) the decommissioning of a lifeboat by Mr McKee which put lives at risk
- g) the creation of an alternative website by Mr McKee to potentially confuse the public and damage the charity's reputation.

The dismissal of Mr Paul Quinn by Mr McKee (and others) without proper authority

3.6 Mr Paul Quinn was properly elected to the Board of Lough Neagh Rescue Ltd as Chairman at an AGM on 20 December 2011. It is clear that an election of directors took place at this meeting and that seven individuals were elected. Mr McKee was one of the directors elected at this meeting but failed to meet with fellow trustees after the meeting or subsequently.

3.7 On 7 January 2012 Mr McKee sent an email to a distribution list entitled 'Lough Neagh Rescue Group' describing the meeting of 20 December 2011 as a failed AGM, and detailing a list of directors and officers of the company.

3.8 The title of the email is recorded as "From the Board of Lough Neagh Rescue" and six names are listed including Mr McKee and Mr Quinn, who were the only names that coincide with the results of the meeting on 20 December 2011.

3.9 On 11 January 2012 Mr McKee sent an email to Mr Quinn with a letter of dismissal dated 9 January 2012 as an attachment. The Commission notes only two days' difference between Mr McKee's identification of Mr Quinn as a trustee on the Board of Lough Neagh Rescue, an apparent Board investigation of his conduct and the decision to dismiss him.

3.10 There is no reference to any disciplinary policy or process, or right to appeal, but the letter appears to be signed by the remaining five members of a Board constructed by Mr McKee.

3.11 The Commission found that:

- The AGM of 20 December 2011 was lawful
- Mr McKee had no authority to change the Board members elected on 20 December 2011
- Mr McKee had no authority or good reason to dismiss Mr Quinn on 11 January 2012.

The attempt to reject assets by Mr McKee which might have become available to the charity

3.12 The charity was offered a Portacabin in 2011, which was to be used for the development of a new station in Antrim. This was a significant asset which would have been a valuable and beneficial contribution towards the development of this new site.

3.13 Mr McKee made an unequivocal and clear attempt to reject this asset for no good reason. Mr McKee also attempted to divert the asset to a “new group”.

3.14 The Commission found that Mr McKee had no authority to reject this asset and that he misrepresented the charity to those wishing to donate to the charity.

The cancellation by Mr McKee of Lough Neagh Rescue Ltd’s involvement in charity events

3.15 Lough Neagh Rescue Ltd has traditionally taken part in a “Pirate Day” organised by a local council on Lough Neagh. Participation in this event has been significant for Lough Neagh Rescue Ltd both in terms of funding received and by enhancing the charity’s public profile.

3.16 Mr McKee cancelled the charity’s attendance at this event in 2012 for no good reason and without authority.

3.17 In the same year, Mr McKee also rejected an approach made by outlet shopping centre, Junction One, for Lough Neagh Rescue Ltd to be the outlet’s charity of the year.

3.18 The Commission found no good reason for Mr McKee to have taken this action in either case and, as a result, the charity has been deprived of the opportunity to gain the benefit of income and associated publicity from these events.

The interference by Mr McKee on sources of income of the charity

3.19 Like many other charities, Lough Neagh Rescue Ltd maintained collection boxes in various locations (mainly shops) adjacent to their area of operation. This was a valuable and regular source of income for the charity.

3.20 In March and July 2012, Mr McKee wrote to charity members instructing them to retrieve collection boxes from shops etc, thus preventing the charity from availing of donations by the public. This action also had the potential to deter outlets from collecting for the charity in the future.

3.21 The Commission found there was no good reason for this action by Mr McKee, the effect of which was to interfere with an important source of income for the charity.

The freezing of the charity's bank account by Mr McKee for no good reason

3.22 In January 2012, Mr McKee wrote to the charity's bank with the effect of freezing the bank account and to create confusion with the charity's bank.

3.23 The bank account was crucial to the operation of the charity and the freezing of the account had the effect of interfering with a vitally important aspect of the charity's operations.

3.24 This action by Mr McKee had the potential to put lives at risk.

3.25 The charity was only able to operate thanks to the contributions and assistance made to it by Craigavon Borough Council.

3.26 The Commission found there was no good reason for Mr McKee's actions and is concerned at how lives were put at risk. Mr McKee knew that in freezing the bank account he was compromising the operations of the charity.

3.27 Mr McKee had no authority to take this action.

The decommissioning of a lifeboat by Mr McKee which put lives at risk

3.28 In 2012, Mr McKee was involved in having a lifeboat, belonging to the charity, taken out of commission.

3.29 The Commission could find no good reason to justify this action, and Mr McKee refused to give details of his reason for having the lifeboat seized.

3.30 Mr McKee suggested there was a threat to the lifeboat but this was found to be unsubstantiated and nothing to do with why the lifeboat was seized. It is concluded that the lifeboat was taken out of commission by Mr McKee solely as a result of the dispute within the charity, and not for any operational or other acceptable reason.

3.31 The Commission found the removal of the lifeboat by Mr McKee interfered with the charity's ability to conduct its roles, particularly training, and therefore resulted in potential risk to lives.

3.32 Mr McKee did not have the authority to take this action.

The creation of an alternative website by Mr McKee to potentially confuse the public and damage the charity

3.33 Mr McKee was instrumental in the creation of an alternative website for the charity. This action was taken to confuse members and the public in general and had the potential to deter donations or funding to the charity.

3.34 Mr McKee incorrectly represented himself as Chairman of the Board of Trustees on this website, which again caused confusion to beneficiaries and stakeholders and potentially caused reputational damage to the charity.

3.35 The Commission found there was no operational or good reason for Mr McKee to have been instrumental in the creation of this website. Mr McKee did not have the authority to take this action.

Section 4: Conclusion

4.1 Since our initial receipt of concerns about the charity, the Commission has availed of the following powers defined by the Charities Act (Northern Ireland) 2008:

- Section 50 – Power to determine membership of charity.
- Section 22 – General power to institute inquiries.
- Section 22(3) – Power to direct persons for information & copies of documents.
- Section 33(2) – Power to remove trustees, officers, agents or employees of the charity.
- Section 34(3) – Power to remove membership of the charity.

4.2 The Charity Tribunal’s findings in relation to Mr McKee confirm eleven separate counts of mismanagement and that it was both necessary and desirable for the Commission 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 of property coming to the charity, specifically to act by removing Mr McKee as a trustee of the Charity.

4.3 *"This is because the Tribunal considers that there is no prospect of Mr McKee productively contributing to the administration of the affairs of the Charity. On the contrary, during the entirety of the time during which these proceedings have been before the Tribunal, the Tribunal has not received any indication from Mr McKee that he has any intention of recognising the authority of the current Board of the Charity or of working constructively with it. In those circumstances, the Tribunal concludes that unless Mr McKee is removed from office, there will be further conflict and disharmony in the management of the Charity, which will interfere with the proper application of the Charity’s property."* Extract from the Charity Tribunal for Northern Ireland decision Between Trevor McKee; Gregory Burke; Michael Savage; Joseph Hughes; Michael McGivern and Robert Orton v the Charity Commission for Northern Ireland, dated 3 July 2014.⁴

⁴ Trevor McKee; Gregory Burke; Michael Savage; Joseph Hughes; Michael McGivern and Robert Orton v the Charity Commission for Northern Ireland NICT 2/13 3 July 2014, page 59, paragraph 185

4.4 As a result of his actions, and by order of the Commission, Mr Trevor McKee is now disqualified from acting as a trustee of any charity within the UK.

Actions required of the trustees

4.5 Since the Commission observed the AGM of 9 April 2013 and the issuing of regulatory guidance, the Board of the Charity has made the following progress:

- Reinstatement of full access to the charity bank account.
- Release of a lifeboat from PSNI custody.
- Reinstatement of the Companies House Proof Scheme for the charity
- Removal of alternative social media and websites.
- Filing of overdue accounts of the year ending March 2012 and then subsequent early filing for the year ending March 2013.
- Revision of articles of association to reflect inclusion of Antrim station and additional categories of membership.
- Re-affirmation of membership based on acceptance and agreement to a code of conduct for members.
- Opening of the charity's Antrim station and receipt of funding from Antrim Borough Council⁵.

4.6 As detailed earlier, at the time of writing, the Commission's view is that the charity has returned to good governance.

4.7 The charity has also completed the Commission's registration process, and will be monitored by Commission staff in line with other registered charities through the charity's annual reporting obligations and the Commission's other processes. The Commission's inquiry is now closed.

⁵ Now part of the Antrim and Newtownabbey Borough Council

Powers and actions of the Commission

4.8 Where possible, the Commission will look to work with charities in order to resolve issues which have come to light and support the organisation in restoring or improving its governance.

4.9 However, there are times when concerns have to be investigated further which will lead to an inquiry by the Commission and it will not hesitate to use its statutory powers to return a charity to good governance.

Lessons for the charity sector

4.10 Charity trustees are the persons having the general control and management of the administration of the charity. Being a trustee is a role which brings with it a number of responsibilities, including that of ensuring your charity is open, accountable, retains the trust and confidence of its stakeholders and complies with the Commission.

4.11 The Commission considers it best practice for a charity to have set terms for trusteeship. The terms would, for example, include who can act as a trustee, the maximum length of service, the rules in relation to nomination, reappointments and the staggering or rotation of roles. Rotating roles (chairperson, secretary, treasurer etc) may provide an opportunity to ensure that current expertise is not lost while allowing new trustees to gain experience and, in turn, bring their own ideas and learning to the table.

4.12 While experienced trustees often have a great deal of knowledge and skills, trustees remaining in office for lengthy periods of time is not always in the best interests of the charity. It can lead to complacency, or an abuse of position, and hinder the charity's development, preventing the charity from adapting to change or identifying new opportunities. Such situations can also make it increasingly difficult for suggestions to be made that it is time for a trustee to let go of the reins, creating disharmony and discontentment.

4.13 Trustees must act reasonably and prudently in all matters relating to the charity and must always bear in mind that their prime concern is the charity's interests. It is therefore important that clear terms of office for all trustees are stipulated and adhered to. If such terms are not already stated within the governing document, the Commission would recommend they are drawn up and ratified, in conjunction with the Chief Executive (where appropriate) and the full Board.

4.14 Many of the concerns the Commission has received have highlighted one issue in particular – adherence to the governing document. A charity’s governing document is the legal document – or rule book - for the way in which the trustees should operate.

4.15 A governing document can take a number of different forms, for example articles of association for a company, and will include information on what the charity is set up to achieve (purposes) and how the charity goes about achieving its purposes (powers). It should also contain administrative provisions relating to:

- governance of the charity
- internal arrangements for meetings, voting and finance
- membership to the charity (where applicable)
- the appointment, retirement and removal of trustees
- if and how trustees can benefit from the charity.

4.16 As such, it is vital that charity trustees ensure they read, understand and adhere to the rules laid out in the governing document.

Comments received from named parties

4.17 The Commission has shared this report with named parties.

4.18 The Commission notes that Mr McKee, Mr Hughes, Mr Burke, Mr Orton, Mr Savage and Mr McGivern have responded stating that they do not accept the findings of this report.

4.19 The charity is content with the report.

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