

KIDS COMPANY: PRACTICAL LESSONS

Welcome

Kids Company – Practical lessons: Part one

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KIDS COMPANY CASE: PRACTICAL LESSONS FOR CHARITY TRUSTEES

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KEEPING KIDS COMPANY (COMPANY NUMBER 03442083)

- Kids Company was a well-known charity, supported by central government and many celebrities, which provided support to vulnerable children and young people.
- Its charitable purposes were:
 - *“a) the preservation of health of children in need of counselling, support and therapeutic use of the arts by reason of their social or family circumstances*
 - *to undertake any other charitable activity.”*

A SUCCESS STORY - FOR 19 YEARS

“I feel the need to express my opinion on the stories I so often read about Kids Company. I was eight when I first met Kids Company staff at my school in south London. I was then introduced to other staff and attended a centre in Camberwell every day after school.

The support, warmth, care and love I received helped me escape my reality, which consisted of sexual, physical and emotional abuse from members of my own family.

Kids Company helped me fight the system and get me into care. They have been the only consistent, trustworthy and truly caring people I’ve been lucky enough to have in my life, and three of them are some of the best people I know now.”

Letter in The Guardian 05 August 2015

TIMELINE

- 30.09.1997: Keeping Kids Company incorporated
- 25.02.1998: “Kids Company” (KC) entered on the Register of Charities.
- **30.07.15: Cameron Government finally signed off on £3M grant to KC, conditional on Camila B assuming ambassadorial role and another CEO being appointed and board changes etc**
- **31.07.15: KC contacted Charity Commission alerting it to an announcement that the police were conducting a criminal investigation into allegations of sexual and physical abuse within the charity. The investigation concluded in January 2016 with no action taken.**
- **12.08.15: KC’s trustees/ company directors petition for the winding up of KC.**
- **20.08.15: commencement of winding up of KC.**
- 20.08.15: Charity Commission begins its inquiry into KC.
- October 2015: NAO report of outcome of investigation into the government’s funding of KC.
- February 2016: Public Administration and Constitutional Affairs Committee (House of Commons) investigation report.
- July 2017: Official Receiver decides to bring company director disqualification proceedings against all former trustees of KC and its founder/ CEO.
- 19.10-17.12.20: High Court hearing of director disqualification proceedings.
- 12.02.21: High Court judgment dismisses OR’s director disqualification claim.
- 10.02.22: Charity Commission concludes its inquiry into KC.

SEVERE CRITICISM

“Primary responsibility for Kids Company’s collapse rests with the charity’s Trustees...if the Trustees had not allowed the charity’s weak financial position to persist for so long, Kids Company would not have been so vulnerable to the impact of the allegations. The board failed to protect the interests of the charity and its beneficiaries, despite its statutory responsibility to do so...The Charity Commission’s guidance to Trustees warns that Trustees should not allow their judgement to be swayed by personal prejudices or dominant personalities, but this is what occurred in Kids Company. This resulted in Trustees suspending their usual critical faculties [in respect of Ms Batmanghelidjh’s operation of the charity]...The Chief Executive and trustees relied upon wishful thinking and false optimism and became inured to the precariousness of the charity’s financial situation.”

PACA Committee *“The collapse of Kids Company: lessons for charity trustees, professional firms, the Charity Commission, and Whitehall”* February 2016

MORE CRITICISM...

“It was dogged by allegations of financial mismanagement, including claims cash handed to children was spent on designer clothes, alcohol and drugs.

And after it shut down numerous examples of misspending of funds emerged, including the decision to send a drug addict called Dave to Champneys spa to relax with a 'chocolate massage' thrown in to boost his self-esteem. The trip allegedly cost the charity £55,000.

Today an official report by the Charity Commission (CC) said that Kids Company operated a 'high risk business model', characterised by a heavy dependence on grants and donations coupled with low reserves.

Investigators found that some of the charity's records were destroyed at the time of its collapse - but those that survived showed that Kids Company was handing 25 people an average of more than £1,700 per month in 2014.

The report said: 'Due to the limited material available, there was "insufficient evidence" for the inquiry to be satisfied that the charity's significant expenditure on a relatively small number of beneficiaries was either justified or in the charity's best interests'.

The Daily Mail 10 February 2022

LEGITIMATE BRITAIN -V- GHETTO BRITAIN

Trainers

“The [police officers] knew just how brutal these children’s lives were. They had walked into their homes and seen the lack of furniture, the missing toys, the desperate sheets that looked unwashed for years, the urine-soaked mattresses on the floor. They saw how there would be no food in the cupboard and yet, in a disgusting corner, were the “crisp trainers”, a pair of shoes that looked clean and new for public display. The trainers were a symbol the child could take out of the home and show without being ashamed.”

“What is the best use of £100 for one of our children? Legitimate Britain says it is education, perhaps a course. The kids would say shoes. I begged funds from people whose value system prizes education, because they assume basic needs such as shelter and food are in place. If I spent it on trainers they would be horrified. But the trainers are a necessary step to education. They give a kid the dignity to tolerate the shame of not reading and writing, then walk into college to learn.”

Camila Batmanghelidjh “KIDS - Child protection in Britain: the truth” (2017)

LEGITIMATE BRITAIN -V- GHETTO BRITAIN

Champneys

“No rehab would take Dave because of his challenging history, no other private hospital would take him because of his violence, the NHS would not take him and he had no home. I came up with a plan, which seemed a stroke of genius, to buy a little thinking time by sending him to Champneys Spa, a health resort outside London, one of the few places where a nurse is on call and a doctor is at hand. It solved the problem of not leaving Dave unsupervised while he was still stabilising on anti-psychotic medication.

The spa was remote enough for him not to access street drugs, and the availability of treatments throughout the day meant that someone would be seeing Dave at regular intervals...”

Camila Batmanghelidjh “KIDS - Child protection in Britain: the truth” (2017)

VENOM

- *“...that garishly-dressed lard-mountain of Persian self-regard (The Spectator)*
- *“...an explosion in a Nigerian sofa factory” (The Sunday Times)*
- *“a pile of Aladdin’s laundry” (the Telegraph)*
- *“a bowl of fruit salad” (Daily Mail)*
- *“Yellows, pinks, scarlets, greens, indigos, and more tartan than they use in the carpets at Balmoral. She’s as tall and wide as a heavyweight wrestler, with Ronnie Barker spectacles and a Robbie Coltrane chin. Her accent is what a chef might call fusion: West Country by way of Tehran, Brick Lane and the Caribbean.” (Quentin Letts, Daily Mail)*



HIGH COURT JUDGMENT FEBRUARY 2021

“...The public need no protection from these Trustees. On the contrary, this is a group of highly impressive and dedicated individuals who selfishly gave enormous amounts of their time to what was clearly a highly challenging trusteeship. I have a great deal of respect for the care and commitment they showed, and the fact that they did not take the much easier path of not getting involved in the first place or walking away when things got difficult.”

“...there were...plenty of examples of the Trustees questioning Ms Batmanghelidjh’s actions and seeking to ensure that controls were adhered to. The Trustees did not simply acquiesce. They obviously recognised that care and some sensitivity was required in dealing with Ms Batmanghelidjh, but that is far from atypical in relation to key members of an organisation. It did not prevent robust challenge, and the imposition of controls, when they considered it to be necessary.”

“...I have concluded that in all the circumstances the Trustees did not act unreasonably in taking account of an expectation of support from the government. In particular [at the relevant time] the Trustees were still genuinely, and not unreasonably, hopeful of substantial additional statutory funding being found...”

THE BOARD OF TRUSTEES

- [Sunetra Atkinson – philanthropist (2006)]
- **Erica Bolton – co-founder of an arts & culture PR company (2005)**
- **Richard Handover – former CEO/Chair of WH Smith (2005)**
- **Vincent O’Brien – accountant with 40+ years in the City (2007)**
- **Francesca Robinson – Exec chair of recruitment consultancy plc (2006)**
- **Jane Tyler – Former partner in City law firm (2007)**
- **Andrew Webster – senior HR executive (2013/14)**
- **Alan Yentob – BBC Creative Director (2003)**

CHARITY COMMISSION INQUIRY FEBRUARY 2022

- *The High Court's findings included:*
 - *whilst aspects of it were high risk, the Charity's operating model was not unsustainable in principle*
 - *the Charity experienced significant cash flow difficulties. Costs accrued evenly over the year, but donations were seasonal, which increased the risk of cash flow difficulties*
 - *the Charity recognised that it could not continue to increase in scale to meet demand without changing its funding model. From 2013 there were discussions about the Charity's future funding model, and the shape and size of the Charity*
 - *funding came under further strain during 2014. The trustees reasonably believed that additional funding could be obtained, and it was reasonable to clarify the Government's funding priorities before determining if cuts were required. A contingency response was developed and discussions with the Government were pursued*
 - *the Charity had a full-time permanent executive, in addition to the CEO, whose expertise the trustees were legitimately entitled to rely upon, and they did so*
 - *the Charity had formulated a restructuring plan. If it had not been for the unfounded sexual assault allegations it is more likely than not that the restructuring would have succeeded, and the Charity would have survived*

CHARITY COMMISSION INQUIRY FEBRUARY 2022

- *The High Court Judgement also included findings that:*
 - *the CEO did have a central role, including in developing strategy, but she was subject to supervision and control by the trustees, who were the ultimate decision makers*
 - *the trustees exercised real scrutiny over expenditure and were entitled to gain comfort from external reports and to expect staff to draw any major concerns to their attention*
 - *the trustees' conduct did not amount to incompetence of a high degree*

CHARITY COMMISSION INQUIRY FEBRUARY 2022

- *The Commission notes the findings by the High Court and the reports by others into the Charity **but** also notes that the scope of the litigation before Mrs Justice Falk and the other reports referred to above is not the same as the regulatory concerns or scope of the Commission's inquiry.*
- *The scope of the Inquiry, as set out at the time of its opening, was to examine:*
 - *the administration, governance and financial management of the Charity including concerns around allegations of inappropriate spending, breaches of financial controls and the conduct of the trustees and the CEO amid concerns about the future viability of the Charity*
 - *any regulatory concerns arising from the investigation carried out by the OR as part of the liquidation process*
 - *whether or not the trustees had complied with and fulfilled their duties and responsibilities as trustees under charity law*

CHARITY COMMISSION INQUIRY FEBRUARY 2022

- *The Charity's repeated pattern of failing to make payments to HMRC when these were due and failure to make payments to workers on time illustrates the financial difficulties that the Charity was in and the failure to manage these effectively. This repeated failure was **mismanagement** in the administration of the Charity by its trustees.*

CHARITY COMMISSION INQUIRY FEBRUARY 2022

“It is clear that beneficiaries did benefit from the Charity’s operation and that the Charity’s CEO was an effective fundraiser. The trustees were skills professionals, aiming to further the objects of the Charity by the contributions they made to it. They had experience in business and, for some, experience as charity trustees...”

....SO WHAT WENT WRONG AND HOW CAN CHARITIES LEARN FROM KIDS COMPANY?

ISSUES FOR THE WIDER SECTOR

- The importance of checks and balances, and the right blend of skills and knowledge, in charity boards
- The requirement for operating models to reflect the nature and scale of the charity
- The role of financial planning and reserves policies
- Considerations when charities grow

1. THE IMPORTANCE OF CHECKS AND BALANCES, AND THE RIGHT BLEND OF SKILLS AND KNOWLEDGE, IN CHARITY BOARDS

- Constructive challenge
- Agreed terms of office
- Succession
- *“What’s not written down didn’t happen”*
- Explanation of trustee terms in Trustees’ Annual Report

2. THE REQUIREMENT FOR OPERATING MODELS TO REFLECT THE NATURE AND SCALE OF THE CHARITY

- *“I’d been begging for 19 years. I had no more people to beg’*
- NAO report
- Measuring impact (Trainers and Champneys)

TO BE CONTINUED....

QUESTIONS

