OFFICIAL WARNING OF
THE CHARITY COMMISSION FOR ENGLAND AND WALES

to

MARC BLANCHETTE

being a trustee of

EXPECTATIONS UK (1152491) (“the charity”)

dated the

6 February 2019

The Charity Commission for England and Wales (“the Commission”) issues this Official Warning under section 75A of the Charities Act 2011 (“the Act”), on the following grounds:

Section 75(1)(a) of the Act: to a charity trustee or trustee for a charity who it considers has committed a breach of trust or duty or other misconduct or mismanagement in that capacity.

The Commission considers that Marc Blanchette (“a trustee”) has committed a breach of trust and/or duty and/or misconduct and/or mismanagement for the following reasons:

1. The trustees were not co-operating with the Commission and the information provided to the Commission was inconsistent with the information provided to another regulator (in relation to their regulatory engagement) which gave rise to a question about accountability.

2. Failure to provide a business plan to the Commission despite several requests. This was considered a breach of duty by the trustees as they were failing to show how the Charity was achieving its charitable objects and if the public benefit requirement was being fulfilled. A Business Plan was submitted on 8/12/18 but there remain concerns about the short and long term financial viability to provide the service and manage debts.

3. Being in breach of statutory duties, under sections 162, 163, 164 and 169 of the Act in relation to the submission of the annual return, trustees annual report and accounts (“Annual Accounting Documents”). It is a criminal offence under section 173 of the Act if there is a failure to supply documents to the Commission.

4. A small emergency loan (later converted to a donation) was provided by a company, which filed for liquidation 5 months later. A director of the company was an associate of one of the trustees. The trustees did not document the decision to accept the small emergency loan, as such it is not clear if the decision was quorate and how (if at all) the conflict of interest and/or loyalty was identified, recorded and managed. This indicated poor governance, a lack of accountability and failure to demonstrate how the decision was made in the best interests of the Charity.
5. As the Charity is a company, the trustees, as the directors of the company, were required to comply with their statutory duties under the Companies Act 2006. The Charity filed their 2016 accounts with Companies House late and received a fine as a result. There was also a qualified opinion in the accounts that there was insufficient information to substantiate the financial statements, which gave rise to concerns about the accountability of the trustees for the Charity’s funds.


7. There was evidence to show that the trustees had failed to comply with the requirements of the Regulator of Social Housing’s consumer standards and the governance element of the governance and financial viability standard. The Commission was concerned as this was an indication that the trustees were not discharging their duties as trustees in relation to the administration and management of the Charity.

Action taken by the Commission

The Charity was subject to a Regulatory Compliance case, which was opened in August 2014 and concluded with the issuing of an Action Plan, under section 15(2) of the Act. The Commission engaged again with the Charity and opened a follow up Regulatory Compliance case in August 2017. The Commission issued an Action Plan, under section 15(2) the Act, to the trustees of the Charity on 7 March 2018. On following-up with the Charity trustees what progress has been made the Commission was concerned to find, that although the trustees had made some progress, they had failed to fully comply with the Action Plan. The regulatory concerns remain outstanding.

Action taken by the trustees

The trustees have carried out a skills audit and a trustee recruitment exercise. However, the Register of Charities has not been amended or updated to reflect this. It shows that there are currently three trustees, two of which have resigned. The Commission is not satisfied with the action taken to date.

Action that the Commission considers should be taken by the trustees to rectify the breach of trust and/or duty and/or misconduct and/or mismanagement:

1. Undertake a governance review, including the financial policies and the management of conflicts of interest;

2. Undertake a skills audit and identify remaining skills gaps on the trustee board, following the appointment of the new trustees;

3. Ensure the Register of Charities is updated following the appointment of the new trustees;

4. Ensure compliance with the statutory obligations, under the Charities Act 2011, and file the outstanding accounts for the Financial Year Ending (“FYE”) 31 March 2016 and FYE 31 March 2017. Provide an explanation for the change in FYE;
5. Prepare and submit a business plan to the Commission to show how the Charity will achieve its charitable objects and public benefit requirement and how it will address both short and long term financial viability for service provision and management of debts; and

6. Ensure the trustees make decisions in the best interests of the Charity with consideration to the duty of prudence. The Charity trustees must ensure they maintain appropriate and adequate records of the decision making process and the decision, and when necessary obtain professional advice.

Failure to remedy the breaches specified above in this Official Warning may lead to further regulatory action being taken by the Commission.