

# Charity Tribunal Releases Decision in Full Fact Appeal

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**CATEGORY:**  
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The Charity Tribunal's decision in the appeal of Full Fact against the Charity Commission's refusal to register it as a charitable organisation, has recently been published in full. The decision raises interesting points regarding the charitable purpose of education and, perhaps more controversially, the extent to which the Charity Commission can consider the activities of the applicant organisation when making its decision whether or not to grant charitable status.

Full Fact is a not-for-profit organisation which checks facts used by the media and politicians and independently verifies their accuracy. In 2009, Full Fact applied to the Charity Commission to be registered as a charity. Its application was rejected.

In April 2010, following lengthy correspondence with the Commission, Full Fact amended its objects. However, its application was again rejected by the Commission. The Commission's decision was made on the grounds that whilst the verification of facts used in public debates might be capable of furthering the advancement of citizenship for the public benefit, it would have to be done to an objective standard using non-political and non-partisan methodology. The Commission was not satisfied that Full Fact could demonstrate that its activities would be '*sufficiently rigorous, objective and independent*' and therefore felt that it would not be providing public benefit.

Full Fact appealed against this decision.

## The Appeal

The Tribunal examined Full Fact's amended objects:

1. Promoting the advancement of citizenship and community development
2. Promoting the advancement of civic responsibility and engagement
3. Promoting the advancement of public education in relation to purposes 1 and 2 above
4. Promoting informed public discourse and debate on matters of public concern in relation to purposes 1, 2 and 3.

Both the Commission and the Tribunal agreed that purpose 1 was charitable. However, there were issues in relation to the remaining purposes.

### **Promoting the advancement of civil responsibility and engagement**

The Tribunal acknowledged that the promotion of civil responsibility is a recognised charitable purpose. However, the inclusion of 'engagement' rendered the purpose ambiguous. Was it to be read as 'engagement' or 'civil engagement'? In the US, for example, civil engagement encompasses a whole range of activities and has a distinctly political tone. The Tribunal highlighted the fact that 'engagement' was not always positive in nature.

The ambiguity and uncertainty caused by the inclusion of 'engagement' made it difficult to determine whether the second purpose was exclusively charitable and for the public benefit. The Tribunal held that it was appropriate to look at the organisation's activities in these circumstances.

The Tribunal concluded that the ambiguity meant that the second purpose was not exclusively charitable. The third and fourth purposes cannot be said to be exclusively charitable either, due to their reference to 'engagement'.

### **Promoting informed public discourse and debate on matters of public concern in relation to purposes 1, 2 and 3**

The Commission had sought to understand the range of activities to be carried out under purpose 4. It had viewed this purpose as being novel and not fitting under any of the established charitable purposes set out in the Charities Act 2006. The Tribunal held that the Commission was entitled to look at the proposed activities of the organisation in order to determine whether the purpose was charitable and whether it would provide public benefit. This was particularly so where the purpose is seeking recognition by analogy to an established charitable purpose.

The main activity of the organisation is the verification of facts. Both Full Fact and the Commission had agreed that a high standard of verification would be required for this activity to provide public benefit. However, the Commission had not thought that Full Fact could meet the requisite standard. The Commission was concerned that if the standard was not met, the activity could be political in nature or could be of little value so as not to add any public benefit.

The Tribunal, having considered this aspect, decided that purpose 4 was not a novel purpose to be determined by analogy to existing charitable purposes. If carried out to the high standard that both the Commission and Full Fact had agreed was required, it could be considered to be

educational. The structured provision of factually correct information is educational in nature and would therefore be charitable. In conclusion, the activities would be '*capable of being charitable if pursued according to the standards and with the methodology appropriate to the provision of education*'.

However, the Tribunal was not satisfied that that Full Fact could meet the required standard of verification to classify its activities as education. It therefore found that this purpose could not be said to be charitable.

#### Additional Concerns

The Tribunal was concerned that the proposed and current activities of the organisation were much wider in scope than was permitted by its objects. The objects only allowed for the promotion of citizenship and community development and civic responsibility and engagement. However, the activities of Full Fact cover any matter of 'public concern'. Therefore, although the objects of Full Fact could potentially be charitable, the scope of the actual and potential activities means that they cannot be said to be exclusively charitable and for the public benefit.

Accordingly, the Tribunal upheld the decision of the Commission and denied Full Fact's application for registration as a charity.

#### Comment

The inclusion of 'the verification of facts' as an educational activity may come as a surprise to some readers. However, by requiring such rigorous standards, the scope of 'education' is actually widened very little in practice. Those able to carry out such activities to the requisite standard would be most likely acting in an educational/research capacity in any event. Therefore, it is unlikely that this decision will actually broaden the scope of education as a charitable purpose.

This decision is also interesting in that it endorsed the practice of examining an applicant's activities during the registration process. It was this examination that ultimately led to the failure of Full Fact's application as their objects were capable of being charitable (but for the inclusion of 'engagement') but their activities were not within the scope of the objects. In many situations however, those seeking registration will not have begun their work or activities.