



**IN THE FIRST-TIER TRIBUNAL**

**Case No. CA/2011/0001**

**GENERAL REGULATORY CHAMBER (Charity)**

**ON APPEAL/APPLICATION FROM:**

**Charity Commission decision reference: 4046851/311673**

**Dated: 03 December 2010**

**Appellant: FULL FACT**

**Respondent: THE CHARITY COMMISSION FOR ENGLAND AND WALES**

**Determined on the Papers**

**Date of decision: 26 July 2011**

**Cases:**

Southwood v A-G ( 1998/99 ITEL R 119)

Re: Koepller's Will Trusts (1986 Ch 423)

**By**

**Peter Hinchliffe (Tribunal Judge)**

**Nicholas Warren (President, General Regulatory Chamber)**

**Stuart Reynolds (Member)**

**Subject matter: Appeal against decision of the Respondent to reject the Appellant's application for registration as a charity.**

**DECISION OF THE FIRST-TIER TRIBUNAL**

**The appeal is hereby dismissed**

**REASONS FOR DECISION**

## 1. Background to the Appeal

1.1. The Respondent (“the Commission”) received an application on 30 July 2009 from the Appellant (“Full Fact”) for registration in the register of charities in accordance with section 3A (1) of the Charities Act 1993.

1.2. Full Fact is a company limited by guarantee (registered company number 6975984) and incorporated by Memorandum and Articles of Association on 29 July 2009. The original objects of Full Fact at the date of its incorporation were amended on 23 April 2010 to read as follows:

*“a)The purposes of the charity shall be to promote the advancement firstly of citizenship and community development, secondly of civic responsibility and engagement and thirdly of public education in relation to the foregoing and fourthly in particular (without prejudice to the generality) to promote informed public discourse and debate on matters of public concern in relation to the foregoing by making available full, accurate and relevant facts concerning the same.*

*b)In promoting the objects aforesaid the trustees shall have particular regard for the need for the charity to be impartial, objective and balanced in what it does and chooses to do and to that end they shall appoint an independent Ombudsman to deal with any complaints as to lack of impartiality, objectivity and balance and to advise the trustees in relation to the preservation of those characteristics.”*

The decision of the Tribunal is based upon the amended objects.

## 2. The Legal Framework

2.1 The Commission has a statutory function to determine whether institutions are or are not charities pursuant to section 1C (2)1 Charities Act 1993 (“the Act”). The Commission is required to maintain a register of charities in accordance with section 3 of the Act.

2.2 The meaning of ‘charity’ is set out in section 1 of the Charities Act 2006 (the “2006 Act”). A charity must be established for exclusively charitable purposes (section 1 (1) (a)). The meaning of charitable purposes is set out in section 2 of the 2006 Act. A charitable purpose is one that falls within the descriptions of purposes in section 2 (2) of the 2006 Act and is for the public benefit. Where any of the descriptions of purposes has a particular meaning under charity law, it retains the same meaning (section 2 (5)).

## 3. The Decision of the Commission

3.1 Following Full Fact’s application for registration as a charity, a long, reasoned and constructive correspondence ensued and a meeting took place between Full Fact and the Commission. Full Fact sought to refine its objects and to explain the charitable purposes that it wished to achieve and the Commission responded with its views and analysis. Full Fact chose to amend its objects during the course of this correspondence. The Commission’s final conclusion was that Full Fact, as currently constituted and with its current activities, was not a charity. The Commission’s reasoning for its conclusion is contained within its letter dated 3 December 2010, which builds on the Commission’s earlier correspondence with the Applicant dated 16 July 2010, 8 April 2010 and 27 October 2009. The nature of the correspondence between the parties and of the issues that the parties sought to address do not lend themselves to crisp summaries of their reasoning. In their letter of 3<sup>rd</sup> December the Commission explained their decision in the following terms:

*“In essence, there appears to be three strands of this application in terms of discrete areas of activity. These are:*

*1. the verification of facts used in public debate*

*2. assisting persons to verify such facts for themselves*

*3 a general educational and research activity relating to the subject of civic responsibility within a public democracy. Particularly in the context of the veracity and use of facts and information in public debate*

*We have confirmed that we would register an organisation as a charity where it is concerned with the advancement of citizenship by building the capacities of persons by equipping them with knowledge and skills to verify information and factual material and enable them to participate fully in the democratic process. This could encompass the second activity referred to above.*

*We would also register an organisation advancing education for the public benefit in citizenship and civic responsibility.*

*We have considered the basis on which the verification of facts used in public debates might be charitable in our letter dated 16 July by drawing on various analogies. In principle, we might accept that verifying the accuracy of information and factual information used in public debate to an objective standard through a non partisan and non political methodology might be capable of furthering the advancement of citizenship for the public benefit. But only if it could be supported by an activity base which had sufficient rigour, was objective and capable of being completely independent and authoritative. However, at this stage we cannot see how this could be demonstrated so that an organisation would be beyond political controversy and provide sufficient impact and effectiveness to deliver public benefit.*

*In particular, in the case of Full Fact, we do not think this is demonstrated”*

- 3.2 The Commission went on to summarise their final position in their Response to the Notice of Appeal:
  - 3.2.1 The Commission accepted, in principle, that purposes directed to verifying the accuracy of information and factual information used in public debate to an objective standard through a non-partisan and non-political methodology might be capable of furthering the advancement of citizenship for the public benefit, if the methods and processes were sufficiently rigorous, objective, independent and authoritative. It concluded that the Company has not demonstrated this.
  - 3.2.2 The Commission repeated that purposes directed to the advancement of citizenship by building the capacities of persons by equipping them with knowledge and skills to verify information and factual material to enable them to participate fully in existing democratic processes for public benefit is a charitable purpose. It concluded that this was not the Company’s purpose as properly understood in light of the factual matrix, meaning how it was established, operates or proposes to operate. Nor was this supported by any current activity of the Company.
  - 3.2.3 The Commission concluded, on the basis of the evidence before it that Full Fact had not satisfied them that it was established for the public benefit and had not demonstrated that it was established exclusively for purposes which fell within the descriptions of purposes set out in section 2 (2) of the 2006 Act or which were directed towards benefiting the public in a way recognised as charitable.

#### **4. The Appeal**

- 4.1 On 27 January 2011 Full Fact submitted an Appeal against the decision of the Commission. Full Fact's appeal can be summarised as follows:
  - 4.1.1 Full Fact's amended objects are charitable.
  - 4.1.2 Full Fact's objects are not ambiguous so there is no need for the Commission to review the activities of Full Fact.
  - 4.1.3 If the activities of Full Fact are to be assessed then these are also charitable. In support of this argument Full Fact responded in detail to the Commission's reasoning in its decision and provided examples of charities that have been registered with similar purposes to those of Full Fact.

#### **5. The Powers of the Tribunal**

- 5.1. The powers of the Tribunal in relation to this appeal are derived from the relevant entry in the table in Schedule 1C to the Act. The Tribunal has the power to dismiss the appeal, or if it allows the appeal, it may quash the Commission's decision and (if appropriate) remit the matter to the Commission for a fresh decision or direct the Commission to rectify the register. Paragraph 5 of Schedule 1C to the Act provides that the Tribunal's power to remit a matter to the Commission includes the power to remit it generally or to remit it for determination in accordance with a finding made or a direction given by the Tribunal.
- 5.2. Under section 2A (4) of the Act the Tribunal is required to consider afresh the decision appealed against and may take into account evidence which was not available to the Commission.
- 5.3 Full Fact and the Commission consented to the Appeal being determined without a hearing and the Tribunal was satisfied that it could properly determine the issues without a hearing. The Appeal has therefore been determined on the papers.

#### **6. The Issues for the Tribunal to Determine**

- 6.1 In determining the Appeal the Tribunal proposes to address the issues set out in paragraph 4 above and also to consider the public benefit that may or may not result from the objects and the activities of Full Fact. Accordingly, the Tribunal has addressed the following issues:
  - 6.1.1 Are the objects and purposes of Full Fact exclusively charitable and for the public benefit?
  - 6.1.2 Is it necessary or appropriate to examine the activities or proposed activities of Full Fact in order to determine its charitable status?
  - 6.1.3 Depending on the answer to 6.1.2, are the activities or proposed activities of Full Fact charitable, for the public benefit?
- 6.2 In the particular circumstances of this case, it is helpful to state the Tribunal's conclusions on these issues at this stage and then explain the reasons for these conclusions and their effect.

- 6.2.1 The Tribunal finds that the purpose of promoting “civic responsibility and engagement” is ambiguous and unclear in the absence of any further definition or qualification and that the fourth purposes (“*to promote informed public discourse and debate on matters of public concern in relation to the foregoing by making available full, accurate and relevant facts concerning the same*”) introduces further ambiguity and uncertainty in to the objects.
- 6.2.2 It is appropriate to examine the activities of Full Fact due to the uncertainty and ambiguity in its objects. In any event, the analysis that is required in order to establish whether the purposes of Full Fact will provide a public benefit must lead to an analysis and evaluation of the activities and proposed activities of Full Fact.
- 6.2.3 If Full Fact is able to carry out the activities of making available full, accurate and relevant facts to the public to the standards of objectivity, accuracy and academic rigour that they have described in their arguments to the Commission, these activities would amount to education and would therefore be capable of being charitable. In the Tribunal’s view such educational activities could provide a public benefit if they had the effect of promoting better informed public debate on matters of legitimate public concern.
- 6.2.4 On a proper interpretation of the objects of Full Fact and having taken account of the activities and proposed activities of Full Fact the Tribunal concludes that the second purpose of promoting “*civic responsibility and engagement*” is not exclusively charitable as the reference to “engagement” permits a range of charitable and non-charitable activities. The Tribunal also concludes that the third and fourth purposes are to be read as promoting “*public education*” and “*informed public discourse and debate on matters of public concern*” only in relation to the advancement of citizenship and community development and civic responsibility and engagement. The incorporation of the reference to “engagement” in each of these purposes means that they are also not exclusively charitable.
- 6.2.4 The activities that Full Fact have carried out and those that they have stated in their arguments to the Commission and in their submission in this appeal they propose to carry out, are broader in scope than those permitted on a proper interpretation of the third and fourth objects of Full Fact.

## **7. The Objects of Full Fact**

- 7.1 The objects of Full Fact are set out in paragraph 1 above. The correspondence between Full Fact and the Commission on their proper interpretation is extensive and helpful and has been considered by the Tribunal. It is not proposed to quote extensively from it. The purposes of Full Fact as set out in the objects can be broken down as follows:
- 7.2 The first purpose: Promoting the advancement of citizenship and community development. The parties have agreed that this purpose is charitable as it is expressly referred to in section 2 (2) (e) of the 2006 Act. The Tribunal concurs.
- 7.3 The second purpose: Promoting the advancement of civic responsibility and engagement. The promotion of civic responsibility is expressly stated in section 2 (3) (c) (iii) of the 2006 Act to be an example falling within section 2 (2) (e) of the 2006 Act i.e. the advancement of citizenship or community development. There is no dispute that this is a charitable purpose. It is however not well defined. Indeed the Commission asserts that it is undefined by the courts.

Full Fact acknowledges that it has added the reference to “engagement” to the purposes set out in the 2006 Act. The correspondence between the parties prior to the decision that is the subject of this Appeal and the submissions in the course of the Appeal have not addressed this purpose to any great extent. The context in which it is used suggests that either “civic engagement” is to be viewed as falling within the same sphere of activities as citizenship, community development and civic responsibility or that “engagement” adds nothing to “civic responsibility”. The term “civic engagement” appears to have some currency in the USA in the context of citizenship. However, the phrase is a broad one and is capable of both positive and negative applications and can, for example, readily encompass political campaigning. The Tribunal regards it as a term that is, at best, ambiguous or unclear as a matter of English law. It cannot be assumed that “engagement” is always positive and capable of providing benefit. In the context of Full Fact’s objects it can be construed as encompassing a range of activities from the benign; taking an active and responsible interest in community development issues, to the overtly political; standing for office for a political party or as an independent candidate, or to the malign; organising and encouraging violent demonstrations in pursuit of social change.

7.4 The third purpose: Promoting the advancement of public education in relation to the purposes listed in 7.2 and 7.3 above. The objects limit the scope of the public education to the “foregoing”. The Tribunal concludes that this refers to the first and second of the purposes set out in the objects and therefore the objects limit the scope of the public education that Full Fact is to provide to citizenship, community development and civic responsibility and engagement. Education provided to the public in connection with citizenship, community development and civic responsibility is likely to be charitable and for the public benefit. The Commission appears to have accepted this. The issue of what constitutes education is addressed below.

7.5 The fourth purpose: Promote informed public discourse and debate on matters of public concern in relation to the “foregoing” by making available full, accurate and relevant facts concerning the same. In this context the foregoing must refer to the purposes listed in 7.2, 7.3 and 7.4 above. This is a novel purpose as written and much of the correspondence between the Commission and Full Fact has concentrated on this purpose. Full Fact argue that the activities set out in this purpose are expressly limited to the obviously charitable purpose set out in 7.2 and 7.3 and that therefore these activities are charitable in themselves. The Commission have sought to understand the activities that are to be undertaken by reference to this purpose. The Tribunal agrees that deciding upon the charitable status of this purpose requires some understanding of the proposed activities in order to assess if they are merely a means of achieving one of the other purposes set out in the objects or if they may constitute a new purpose of the sort provided for in section 2 (4) of the 2006 Act. Section 2 (4) provides as follows:

- “a) Any purposes not within paragraphs (a) to (l) of subsection (2) but recognised as charitable purposes under existing charity law or by virtue of section 1 of the Recreational Charities Act 1958 (c. 17);*
- b) Any purposes that may reasonably be regarded as analogous to, or within the spirit of, any purposes falling within any of those paragraphs or paragraph (a) above; and*
- c) Any purposes that may reasonably be regarded as analogous to, or within the spirit of, any purposes which have been recognised under charity law as falling within paragraph (b) above or this paragraph.”*

7.6 Paragraph (b) of the objects does not include any additional purpose and provides no assistance in evaluating the charitable status of Full Fact's objects as set out in the paragraph (a). It is of some relevance to an understanding of the activities and proposed activities of Full Fact.

7.7 Full Fact has argued that a review of the activities of Full Fact is not necessary. The Tribunal notes that Full Fact had invited the Commission to review its activities during their correspondence, for example in its letter to the Commission of 19 March 2010. Existing charity law permits this approach. See *Southwood v A-G* (1998/99 ITEL 119) where Carnwath J approved of the Commission's use of extrinsic evidence in the following terms:

*"The Commissioners considered, in the light of cases such as McGovern, that if the Deed contained an ambiguity it was proper for them to look at the surrounding facts, including the activities of the promoters, both before and after the execution of the Deed.*

*I think they were correct to adopt that approach. As Sachs LJ said in Council of Law Reporting -v- AG [1972] 1Ch 73, 91:*

*"Whilst appreciating what has been said as to the courts not being permitted, where plain language is used in a chart or memorandum, to admit extrinsic evidence as to its construction, it is yet plain from the course adopted by the courts in many cases that they are entitled to and do look at the circumstances in which the institution came into existence and the sphere in which it operates to enable a conclusion to be reached on whether its purposes are charitable"*

*Similarly, in Attorney-General -v- Ross [1986] 1 WLR 252, 263 Scott J said:*

*"The skill of Chancery draftsmen is well able to produce a constitution of charitable flavour intended to allow the pursuit of aims of a non-charitable or dubiously charitable flavour. In a case where the real purpose for which an organisation was formed is in doubt, it may be legitimate to take into account the nature of the activities which the organisation has since its formation carried on.*

*He made two qualifications to that proposition: first, that the activities must be intra vires, and secondly, that the activities –*

*"are of a nature and take place at a time which gives them probative value on the question whether the main purpose for which the organisation was formed was charitable or non-charitable." (p 264). "*

7.8 Furthermore, it is difficult to see how any analysis of the public benefit of Full Fact could take place without some understanding and assessment of its proposed activities if it were to be registered as a charity. This analysis is particularly appropriate if Full Fact is seeking to pursue a purpose falling within section 2 A (4) of the 2006 Act as "analogous to or within the spirit of, any purposes" falling within those recognised in the 2006 Act or which have previously been recognised under charity law. In the circumstances, the tribunal concludes that further analysis of the activities and proposed activities of Full Fact is appropriate.

## **8. The Activities and Proposed Activities of Full Fact**

8.1 Full Fact has pointed out that its operations are at a formative stage; "it cannot run before it walks" in their phrase. The Commission and Full Fact have sought to assess its status in the light of its planned activities. It is difficult to definitively summarise the activities of Full Fact, as explained at some length by Full Fact in the papers presented to the Tribunal, but in broad terms the following extracts from the correspondence between the parties and the submissions to the Tribunal point to an organisation that wishes to provide accurate

information on matters that are the subject of public debate and public interest in order to improve the quality of public and political discussion and media coverage of it:

- 8.1.1 *“at/of the heartland of its purposes, namely to advance citizenship by increasing the competence and confidence of citizens in their own ability to get access to the factual underlay of some of the most difficult issues of the day”*
- 8.1.2 *“The work of Full Fact is to provide citizens with accurate information on often contentious subjects, and to encourage other information providers to do likewise.”*
- 8.1.3 *“The primary activity of the organisation is about correct facts being used in public debate for the benefit of public discourse and responsible citizenship that of course promotes education as well.”*
- 8.1.4 Full Fact is to pursue its purposes through *“impartial, objective and balanced means”*.
- 8.1.5 *“The activities of the Appellant go well beyond mere verification of facts used in public debate”*.
- 8.1.6 Full Fact stated that the following summary proposed by the Commission of *“what the charity is all about... to be commendable”*:  
*“You told us that the purpose is not to promote or undermine politicians and parties but the aim is better access to correct facts to ensure the public have confidence in the information presented. The raison d’être is to ensure well founded facts are presented to the public by the media and politicians. You say Full Fact will not provide opinions about topics or issues, or comment on whether the policies of government or political parties are right or wrong. The aim is not to produce good stories or attempting to catch people out.”*
- 8.1.7 *“Civic responsibility is one key component of citizenship which cannot be inculcated or sustained without citizens at all levels being given the opportunity to understand and participate in civic society. There are many aspects to that, of course, but one is unarguably making available to citizens the full and true facts requisite to their potential engagement in public discourse. A healthy democracy should be influenced more by fact than fiction, more by honesty than falsehood and more by objective reality than prejudice. We invite the Tribunal to conclude that the benefits flowing from such civic responsibility are clear and largely self-proving (see the assertion at the end of R35, for example). Another assertion on the part of the CC is that the public benefit must be susceptible of proof. Even if that is correct, sometimes it is commonsensically self-authenticating.”*
- 8.1.8 *“we would suggest that advancing the purposes of FF, as defined, can only be done so as to advance community life, as it will democracy and civic society.....Individual empowerment, which is at the root of community development, given that the individual is the basic unit of community, is very much at the heart of FF’s purposes and activities (actual and proposed).”*
- 8.2 Amongst the issues on which Full Fact has sought to clarify or verify information used in press reporting of political issues are:
  - Statistics on the misdiagnoses of special needs children.
  - Whether the UK’s defence expenditure is exceptional by international standards.



- The size of the attainment gap between private schools and state schools in the UK.
- Statistics on anti-social behaviour.
- Recidivism rates in relation to different court sanctions.
- Divorce rates
- Migration
- Maximum Housing Benefit payments.
- Crime rates
- Public expenditure

8.3 The Tribunal has concluded from the evidence of the many matters on which Full Fact have commented and from the explanation that Full Fact has given to the Commission, that the activities are not, as the objects suggest, limited to “public education” or “informed public discourse and debate on matters of public concern” only in relation to “citizenship and community development” and “civic responsibility”. The evidence does not suggest that Full Fact contemplates any particular limit on the matters of public concern on which Full Fact may seek to provide factual analysis or accurate information. Such an approach suggest that either the objects do not fully reflect the activities of Full Fact or that the interpretation of “citizenship and community development” and “civic responsibility and engagement” in the objects includes all aspects of public policy, current affairs and political activity.

8.4. The Commission’s principal concern about the purposes and activities of Full Fact have consistently been that they permit a political purpose to be pursued and that the contribution of Full Fact to any public debate or public issue will merely be the addition of another opinion or viewpoint on the relevant issue. In the Commission’s letter of 30 December 2010, the following summary of their concern and their conclusion is provided:

*“We have said that we would accept educational and capacity building purposes around civic responsibility, but of course this is still an area to be developed and the principal activity remains focused on the verification of information and factual material used in public debate and whether this can support a charitable purpose and that is the essential issue here.*

*As normal in these cases, particularly where a novel charitable purposes is in issue, and following the approach taken by the courts, we do look at the activities of an organisation to see what purpose they serve and then take view as to whether those purposes can be potentially charitable and whether they inure for the public benefit.*

*Having carried out this process, we have concluded that the methodology and process employed will not necessarily deliver a purpose which is charitable and for the public benefit as it will not necessarily lead to an independent, objective and authoritative verification of facts outside of comment and conjecture free from political embroilment to serve the purpose put forward for it and have an impact which would operate for the public benefit.”*

Much of the debate between the Commission and Full Fact concerned the important issue of whether the verification work that Full Fact is to undertake will be done with the requisite degree of impartiality, authority and accuracy. This is an important issue to both parties (and to the Tribunal). The Commission risks creating a precedent that could lead to many organisations that purport to advance correct information or the truth on any political issue, claiming charitable status. Full Fact accepts that this issue is of fundamental importance. They point out that paragraph (b) is included in the objects in the hope of cementing their impartiality, objectivity and balance. It would, they say, be “ultra vires” to act in any other

manner. An independent ombudsman role has been created to assist in meeting these aims. The Tribunal had some concern about the potential for the trustees to place too much reliance on the views of the independent ombudsman on matters that are properly the responsibility of the trustees. Overall the Tribunal notes that the Commission and Full Fact agree in large measure about what is required in order to provide the required level of impartiality, authority and accuracy.

- 8.5. In their final decision, as the extract set out in paragraph 3.1 above shows, the Commission accept that the purpose that Full Fact wishes to achieve may be charitable but the Commission doubts that the requisite rigour, objectivity and capability could ever be demonstrated to a standard that removed the organisation from political controversy.
- 8.6 Having reviewed the arguments of the parties in relation to the standard that might be expected of a charity intending to act as source of accurate information to those interested in matters of public concern, it is clear that there is a large measure of agreement on what those standards should be. In rejecting the application for registration, the Commission refer to the following criteria not being satisfied:
- “verification by an independent and authoritative source.”*  
*“objective standard through a non-partisan and non-political methodology”*  
*“An activity base which had sufficing rigour, was objective and capable of being completely independent and authoritative”*  
*“the processes adopted are educational or that the information made available is capable of leading to an increase in knowledge and skills to enable people to participate in democratic processes.”*  
*“independent, neutral and balanced”*  
*“The structure and processes must be sufficient so as to be educational and capable of advancing knowledge and skills”*
- Full Fact adopts a strikingly similar approach in describing the standards that they will meet in their activities and planned activities and their methodology. References to impartiality, objectivity, diligence, best sources, and data of educational value abound in Full Fact’s account of its actual or planned operational activities. The difference between the parties lies in whether they believe that Full Fact is capable of achieving the required standard. In so far as they fail to do so then the Commission is concerned that the activities will either be political, as Full Fact’s contributions to public debate simply reflect a particular position or seek to denigrate politicians or other viewpoints, or if it is neutral, the contributions will be merely conjecture or inadequately verified and therefore of little or no public benefit.
- 8.7 The Tribunal’s review of the activities and proposed activities of Full Fact lead it to a different conclusion. The parties agree on the standards that should be met for the activities of Full Fact to be charitable. The Tribunal also agrees that the provision of accurate information derived from rigorous factual analysis on matters of public debate should be for the public benefit. In the most simple of terms; there must be a public benefit in public discourse and debate on matters of public concern taking place on the basis of accurate facts rather than inaccurate facts. The Tribunal concludes that should the requisite standards be met in the course of producing and making available accurate factual information then it is not necessary to search for a new charitable purpose under the Act. The activity that Full Fact would be carrying out would fall within the ambit of education. Both parties appear to have teetered on the brink of this conclusion in their correspondence and submissions.
- 8.8 It is not necessary to include a detailed review of the case law on the definition of education

in this decision in order to understand that the structured provision of factually correct information to the public is likely to constitute education. The Commission's guidance on this topic supports this conclusion and it is apparent from the case law that the active dissemination of academic research had been found to be charitable and the passive provision of information in a structured manner, through for example a library or a museum open to the public, is also charitable. There are clearly standards to be met in terms of the quality of the information, materials or research being made available and the objective nature of the conclusions drawn from it. It is difficult to see from the case law that these standards are any less stringent than those demanded by the Commission and offered by Full Fact.

- 8.9 It is easy to understand the Commission's concern that commenting on political matters is likely to be a political activity and that all sides in a political debate may well argue that their views are based on facts and diligent research, whilst coming to conflicting conclusions. However, academic research and other educational activities may also stray into areas of political disagreement. What distinguishes education and academic research is the rigorous standards of objective analysis and factual research that support these conclusions.
- 8.10 An organization that provides full, accurate and relevant facts to the public on matters of public concern and thereby promotes informed public discourse and debate is in the Tribunal's view capable of providing education for the public benefit. The Tribunal notes the judgement in *Re: Koeppler's Will Trusts* (1986 Ch 423) in which the Court of Appeal found that an organisation that held expert conferences on international affairs with a view to encouraging debate and pursuing "*genuine attempts in an objective manner to ascertain and disseminate the truth*" was capable of being charitable as it was fulfilling an educational purpose. This conclusion was reached despite the likelihood of the participants in the conferences holding conflicting views and the political nature of the issues that may be discussed.

## **9. Comparison of the Objects and the Activities of Full Fact**

- 9.1 The Tribunal notes that Full Fact have sought to provide information on a wide range of issues that have been reported in the media. This appears to be accepted by Full Fact and the Commission. The Tribunal interprets the objects as restricting Full Fact to public education in relation to citizenship and community development and civic responsibility and engagement and to promoting informed public discourse and debate on only these issues. Full Fact's activities and proposed activities do not reflect these restrictions. All matters in political or public debate appear to be within the scope of Full Fact's activities, although it is recognised that other matters that are the subject of media reports, from celebrity gossip to sport, do not feature in Full Fact's activities. Nevertheless, the Tribunal does not accept that objects that permit public education in relation to the advancement of citizenship and community development and civic responsibility and engagement, can be interpreted as permitting the provision of education about any matter of public concern.
- 9.2 The Tribunal's review of the activities and proposed activities of Full Fact did not assist in reducing its concern about the breadth of the second object. The Tribunal's remains concerned that the promotion of civic responsibility and engagement is not exclusively charitable and for the public benefit.

## **10. The Tribunal's Conclusion**

- 10.1 The Tribunal's conclusions are set out at 6.2 above. In the light of these conclusions, the Tribunal does not regard it as necessary to address the arguments of the parties regarding the analogies to be drawn between the objects and activities of Full Fact and those of other charities that have been registered by the Commission. Nor is it necessary to consider whether Full Fact's purpose may fall within the ambit of s. 2 A (4) of the 2006 Act.
- 10.2 Full Fact must decide what to do next in pursuing their objectives and the Commission must reach its own conclusions on any further application for registration by Full Fact. The Tribunal has indicated that the activities that Full Fact wishes to pursue are capable of being charitable if they are pursued according to the standards and with the methodology appropriate to the provision of education. Full Fact were correct to state that should registration be gained on this basis and Full Fact persistently fail to meet those standards, either deliberately or through neglect, or through a misplaced reliance on the 'ombudsman' referred to in the objects, then the trustees risk acting in an ultra vires manner or otherwise failing in their duties.
- 10.3 The proposed activities are not consistent with the current objects of Full Fact and these objects would require some clarification in order to resolve the ambiguity and uncertainty referred to in the Decision.

## **11. Decision**

- 11.1 The appeal is dismissed on the basis that the purposes of Full Fact are not exclusively charitable.

**Signed:**

**Peter Hinchliffe  
Tribunal Judge**

**Dated: 26 July 2011**