



**FIRST-TIER TRIBUNAL
GENERAL REGULATORY CHAMBER
CHARITY**

Tribunal Reference: CA/2015/0003
Appellant: The Steadfast Trust
Respondent: The Charity Commission
Judge: Peter Lane

**DIRECTIONS TO PARTIES FOLLOWING TELEPHONE
CASE MANAGEMENT HEARING ON 18 NOVEMBER 2015**

Preliminary

1. A telephone case management hearing took place at 2pm on Wednesday, 18 November 2015. Mr Tilbrook, Solicitor, represented the appellant and Mr Jaffey of Counsel represented the respondent. The Tribunal is grateful to them for their helpful submissions, which the Tribunal has considered, together with the related correspondence and draft directions etc.
2. As explained, the Tribunal is required to re-make the decision under appeal and for this purpose it is not limited to considering only the evidence and arguments that were before the Commission at the time of that decision. The appellant bears the burden of showing that the appealed decision is wrong.

Issue 1: do the objects lack legal certainty?

3. The respondent's primary position is that the expression "the Anglo-Saxon community" in the appellant's objects lacks the legal certainty required in order for it to be shown that those objects are exclusively charitable; and that this is also the case if the expression is equated with "English ethnicity". The respondent relies upon case law, cited in its response of 30 July 2013.
4. Having regard to the matters set out in paragraph 2 above, the appellant may adduce evidence, which was not before the respondent when it reached its decision, which is intended to demonstrate that the expression has the requisite certainty, which is not to be equated with being of English national origin. The appellant has the task of adducing this evidence, a point which is, in effect, acknowledged in the letter of 12

November 2015 from Messrs Tilbrooks, at the bottom of page 3 and the top of page 4.

5. If, as appears to be the case, the appellant intends to adduce any such evidence, the stage has been reached in these proceedings where the appellant needs to assemble it. What form the evidence will take is a matter for the appellant.
6. The Tribunal understands the appellant's concerns that any direction at this stage should not be so prescriptive as to require the filing of fully-completed witness statements, with comprehensive annexes. What is required is sufficient detail to enable the Tribunal and the respondent to understand the thrust of the appellant's case and for the respondent to decide whether, and if so, what evidence it will adduce in response. The respondent will then be directed to provide at least the same amount of detail, regarding any such evidence. Thereafter, each side will be given an appropriate opportunity to finalise its evidence (including any rebuttal evidence).
7. The appellant is hereby directed as follows.

Not later than 4pm on 15 January 2016, the appellant shall file with the Tribunal and serve on the respondent:

(1) the names and qualifications of any witnesses (whether expert or otherwise) whom it is intended to call to give evidence on the appellant's behalf, regarding the issues mentioned in paragraphs 3 and 4 above ("the issues");

(2) a synopsis of the evidence to be given (or which it is currently considered is likely to be given) by that witness;

(3) if the witness is to be put forward as an expert, a copy of the instructions given to him or her; and

(4) a copy of any published material to be relied on, regarding the issues; or a sufficient link to enable this to be accessed online.

Issue 2: is a "colour bar" intended?

8. The respondent's secondary position is that, even if its primary position is found by the Tribunal to be wrong, the intention of the settlors, as evidenced by the matters set out at paragraph 9(c) of the response dated 30 July 2015, operates as a colour bar, contrary to sections 193 and 194 of the Equality Act 2010. The respondent relies in this regard on the materials in its primary and secondary disclosure, which the respondent is re-sending to the appellant.
9. **Any request that the appellant makes to the respondent for further disclosure on this issue shall be made in tabular form, setting out a description of the material requested and the reason for the request, and the respondent will indicate, by reference to the same table, whether it agrees or not to the request, giving reasons for any refusal.**

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10. **If the appellant seeks an order from the Tribunal, the appellant must do so in writing, enclosing the relevant table.**

Next steps

11. Shortly after 15 January 2016, the Tribunal will decide the form of the forthcoming case management hearing and give directions as to the matters to be dealt with at it.

Judge Peter Lane

Chamber President

Dated 18 November 2015