



**Name of the University**

**Name of the course and year (e.g. LLB; GDL)**

**Equity & Trusts**

**(Formative/Summative assignment or any other type of assessment that you are undertaking)**

**Discuss whether the following trusts are charitable according to the current English Law on charitable trusts:**

**(a) to ease the cultural difficulties suffered by community addicted to jazz;**

**(b) for the construction of private churches in catholic schools;**

**(c) for the treatment of stress and depression suffered by new graduates who could not get accepted to any University;**

**(d) For the investigation of the true political beliefs and objectives of the government;**

**(e) for the construction of gyms in the offices where most of the employees are required to work long hours and sit all day.**

**Provide full reasoning for each answer applying the relevant case law.**

Name:

Reg No:

Group:

***Important Notice:*** *This is just an example of first page that can be followed. However, different kinds of assessments may require different formats. Make sure you follow the instructions of your particular assessment.*



*The coursework was awarded 68%. It can be used as an example for a structure to follow in the coursework for problem questions and the OSCOLA referencing style.*

*Please bear in mind that you should only use this model coursework for educational purposes. Any acts like copying parts of this essay and submitting it as yours will amount to breach of IP rights and serious academic misconduct.*

## **Answer:**

According to the current charities law that is now codified under Charities Act 2011<sup>1</sup>, in order for the trust to be held charitable as it is required by s 2(1) of the 2011 Act it has to fall under the recognized charitable purpose set out in s3(1) of the same Act and it must satisfy the public benefit test. The present essay will discuss each section in turn and consider whether the given trusts can be held charitable under the current English Charitable trusts law.

### **a) To ease the cultural difficulties suffered by community addicted to jazz;**

Under section 3(1) of Charities Act 2011<sup>2</sup>, there are 13 categories of charitable purpose that is recognized under the current law. As it was already outlined above in order for the trust to be validated as charitable, it needs to fall under one of the categories of the 2011 Act and satisfy the public benefit test. In the present case, it can be argued that the facts fall under the category of the advancement of the arts, culture, heritage or science in section 3(1)(f)<sup>3</sup>. Music can be considered to be an art and easing of the cultural hardship of addicted to jazz music and therefore the advancement of arts and culture. On the other hand, for the second requirement of charitable trusts law, there has to be a sufficient public benefit that was discussed in the case of ***Oppenheim v. Tobacco Securities***<sup>4</sup>. In this case, Lord Simmonds found in accordance of the case of ***Re Compton***<sup>5</sup> and argued that trust had to be for the benefit of a class of persons at large that could be regarded as such a 'section

<sup>1</sup> Charities Act 2011

<sup>2</sup> *ibid.*

<sup>3</sup> Charities Act 2011, section 3(1)(f)

<sup>4</sup> *Oppenheim v. Tobacco Securities Trust Co.* [1951] A.C. 297

<sup>5</sup> *Re Compton* [1945] 1 Ch 123



of the community' as to satisfy the test of public benefit. Therefore, there has to be a sufficient public benefit before it can be a valid charitable purpose. Applying the reasoning to the instant case, it can be argued that the key would be to know what number of people we are dealing with. In other words, if the number of addicted people to jazz music is massive or just small group of people. It can be stated that more the number of people is, more would the sufficient public benefit be visible and approved by the Court.

In accordance with the abovementioned arguments to ease the cultural difficulties suffered by those addicted to jazz music is more likely to be validated as charitable trust considering that the number of people under this trust is sufficient section of public.

#### **b) For the construction of private churches in catholic schools;**

The essay will start discussing the possible charitable purpose first and afterwards consider the public benefit test. The construction of churches can be argued to fall under the category of Advancement of Religion (section 3(1)(C) of Charities Act 2011<sup>6</sup>). Religion under 2011 Act includes both religions that believe in god and the ones that do not recognize the existence of god. A small church used by Christian group includes the belief in god and falls under the category of religion in 2011 Act. Moreover, for the trust to be held charitable there has to be a sufficient public benefit. It is arguable to what extent the construction of private church can be considered as charitable. The word 'private' here indicates the fact that it is not open to public that reduces the chance of it to be held charitable. As House of Lords stated in the case of *Gilmour v Coats*<sup>7</sup>, there has to be a demonstrable public benefit and it must not be limited to any private group of individuals. In *Gilmour v Coats*<sup>8</sup>, the admission to the community was not limited to private group of persons but the trust did not have any public utility therefore it was not granted a charitable status. Applying the reasoning to the instant case, it can be said that private churches are not for the use of public but limited to certain group of individuals thus it cannot acquire a charitable status.

<sup>6</sup> Charities Act 2011, s 3(1)(C)

<sup>7</sup> *Gilmour v Coats* [1949] AC 426

<sup>8</sup> *ibid.*



**c) For the treatment of stress and depression suffered by new graduates who could not get accepted to any University;**

The category that most resembles the facts outlined above is the advancement of health or the saving of lives under section 3(1)(d)<sup>9</sup>. Moreover, it also resembles the category under section 3(1)(j)<sup>10</sup> that is the relief of those in need because of youth, age, ill-health, disability, financial hardship or other disadvantage. In relation to the former, it can be argued that the trust for treatment of new graduates can be regarded as advancement of their health whereas as regards to the latter category, it can be said that the situation resembles to the relief of those in need because of youth. Furthermore, the public benefit test needs to be considered. In the case of *Williams v IRC*<sup>11</sup>, a trust was established for ‘the benefit of Welsh people resident in London’. Lord Simonds held that it could not be a charitable purpose because ‘a trust must be of a charitable character’ and not restricted to individuals. Applying the reasoning to the present case, it can be said that new graduates are private group of individuals and not a public. Therefore, it cannot be charitable purpose.

**(d) For the investigation of the true political beliefs and objectives of the government;**

It is well-established rule that political purposes of trust are excluded from charity. Where the goal is political the courts will not uphold a valid charitable purpose. The case where this principle was approved is *National Anti-Vivisection Society v IRC*<sup>12</sup> where the aim of the trust was to change the law. Lord Simonds considered that changing the legislation is political purpose that is excluded from charity. Applying the reasoning to the instant case, the trust for the investigation of the political beliefs and objectives of the government is political and cannot be charitable.

**(e) For the construction of gyms in the offices where most of the employees are required to work long hours and sit all day.**

<sup>9</sup> Charities Act 2011, Section 3(1)(d)

<sup>10</sup> Charities Act 2011, Section 3(1)(j)

<sup>11</sup> *Williams’ Trustees v Inland Revenue Commissioners* [1947] AC 447

<sup>12</sup> *National Anti-Vivisection Society v Inland Revenue Commissioners* [1948] A.C. 31



The category under which the construction of gyms can fall is section 3(1)(g) – advancement of amateur sport<sup>13</sup>. Provision of exercise facilities is advancement of sport and it falls under the recognized charitable purposes. Moreover, it can be argued that the facts of the present trust resembles to the category under section 3(1)(d) – advancement of health<sup>14</sup>, because of the fact that motivating people in sedentary work to exercise and add some physical activity to their lifestyle could be regarded as advancement of their health.

Furthermore, the facts could be analyzed as recreational activities that are now recognized charitable purpose. In the case of *Guild v IRC*<sup>15</sup>, the House of Lords held that recreational facilities counted as charitable trusts. Lord Keith, giving the sole opinion, applied the Recreational Charities Act 1958, which provides that recreational activities providing “social welfare” to people from social disadvantages or the general members of the public were appropriate charitable trusts. His lordship further argued that the facilities must be provided with the object of improving the conditions of life for persons who suffer from some form of social disadvantage. Applying the reasoning to the instant case, it can be said that it is arguable if those engaged in sedentary work can be classified as socially disadvantaged. However, providing gyms is meant to improve their life conditions as required in the abovementioned judgment. Moreover, what can strengthen the argument of the given facts to be held as charitable purpose is section 5 of Charities Act 2011.<sup>16</sup> It re-enacts the recreational charities act and sets out conditions that must be fulfilled. The basic conditions are: facilities provided must improve the conditions of life of the people for whom it is provided; those persons must need facilities because of youth, age, infirmity or disability, poverty or social and economic circumstances, and facilities must be available to public at large. In the present case, the first condition can be argued to be fulfilled because facilities provided would improve the condition of life of those engaged in sedentary work. Also, in regards to the second condition, it can also be considered to be fulfilled because of the fact that those workers need exercise facilities for their social or economic circumstances, which is being engaged in sedentary work with no physical activity that can affect their health state. Lastly, based on the facts of the case, the facilities are provided to those in need – Staff

<sup>13</sup> Charities Act 2011, s 3(1)(g)

<sup>14</sup> Charities Act 2011, s (3)(1)(d)

<sup>15</sup> *Guild v Inland Revenue Commissioners* [1992] 2 A.C. 310

<sup>16</sup> Charities Act 2011, s 5



employed by companies who are required to work long hours and sit all day, with no restrictions, therefore it can be argued that it is available to members of public at large. According to this analysis, it can be argued that public benefit requirement is also present because the section of public in question will benefit from the trust by providing for them exercising facilities and enable them to engage in physical activities.

According to the reasoning mentioned above, it can be concluded that the trust, for the provision of exercise facilities for those engaged in sedentary work in universities, is a charitable purpose.

## Bibliography:

### **Statutes:**

Recreational Charities Act 1958  
Charities Act 2011

### **Cases:**

*Oppenheim v. Tobacco Securities Trust Co.* [1951] A.C. 297  
*Re Compton* [1945] 1 Ch 123  
*Gilmour v Coats* [1949] AC 426  
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*Guild v Inland Revenue Commissioners* [1992] 2 A.C. 310

### **Books:**

Hudson A, *Equity And Trusts* (9th edn, Taylor & Francis Ltd 2016)

### **Websites:**

<http://legalresearch.westlaw.co.uk/>

<https://www.lexisnexis.com/uk/>