

[2018] UKUT 0351 (TCC)



Appeal number: UT/2017/0162

**UPPER TRIBUNAL
TAX AND CHANCERY CHAMBER**

**THE CHARITY COMMISSION FOR
ENGLAND AND WALES**

Appellant

- and -

(1) CAMBRIDGE ISLAMIC COLLEGE

**First
Respondent**

(2) CAMBRIDGE MUSLIM COLLEGE

Second Respondent

TRIBUNAL: MRS JUSTICE ROSE

**Sitting in public at The Rolls Building, Fetter Lane, London EC4A 1NL
on 2 October 2018**

**Iain Steele of Counsel for the Appellant
Matthew Smith of Counsel for the First Respondent
The Second Respondent did not appear and was not represented.**

DECISION

1. The Appellant, ('the Commission') appeals against the decision of the First-tier Tribunal (Charity) released on 29 August 2017 (appeal no. CA/2016/0008). The
5 First-tier Tribunal (Principal Judge Alison McKenna, Carole Park and Stuart Reynolds) quashed the direction made on 12 September 2016 by the Commission pursuant to s 42(1) of the Charities Act 2011 ('the Charities Act'). That direction had required the First Respondent, Cambridge Islamic College, to change its name. Permission to appeal was given by the FTT in a decision on 4 October
10 2017.
2. Cambridge Islamic College is a registered charity and a company limited by guarantee. It was incorporated as a company in August 2013 and registered as a charity in September 2015. Cambridge Islamic College's objects are "For the public benefit, the advancement of education, in particular but not exclusively
15 through the provision of higher education in Islamic Studies".
3. The Second Respondent is Cambridge Muslim College. It is also a registered charity and a company limited by guarantee. It was incorporated as a company in September 2009 and registered as a charity in August 2010. Its objects are "to advance the religion of Islam for the public benefit in accordance with the beliefs and practices of the four recognised Sunni school of thoughts, including the provision of education and training of Muslim leaders and scholars to work in the United Kingdom and elsewhere, and through this to promote and advance religious harmony within the United Kingdom". It was the complaint from Cambridge Muslim College to the Commission which resulted in the direction being made.
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4. Section 42 of the Act provides as follows:
- "Power to Require Name to be Changed"**
- (1) If this subsection applies to a charity, the Commission may give a direction requiring the name of the charity to be changed, within such period as is
30 specified in the direction, to such other name as the charity trustees may determine with the approval of the Commission.
- (2) Subsection (1) applies to a charity if –
- (a) It is a registered charity and its name ("the registered name") –
- (i) is the same as, or
- (ii) is in the opinion of the Commission too like,
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- the name, at the time when the registered name was entered in the register in respect of the charity, of any other charity (whether registered or not),
- (b) [the name of the charity is misleading as to its purposes or activities]
- 45
- (c) [the name includes a prohibited word or expression which is likely to mislead as to status]

(d) the name of the charity is in the opinion of the Commission likely to give the impression that the charity is connected in some way with Her Majesty's Government or any local authority, or with any other body of persons or any individual, when it is not so connected, or

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(e)...

(3) Any direction given by virtue of subsection 2(a) must be given within 12 months of the time when the registered name was entered in the register in respect of the charity.

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(4) In subsection (2) any reference to the name of a charity is, in relation to a registered charity, a reference to the name by which it is registered.

(5) Any direction given under this section with respect to a charity must be given to the charity trustees."

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5. Section 43 of the Act sets out the duty of charity trustees to give effect to a direction under section 42 regardless of anything in the trusts of the charity.

20 6. It is accepted by the parties that the test to be applied under section 42 has two limbs. The first limb is for the Commission to consider whether any of the subparagraphs of section 42(2) applies. If one or more of them does, the second limb is for the Commission to exercise its discretion whether to give a direction requiring the name of the charity to be changed.

25 7. The direction in contention here states that it is given because, in compliance with section 42(2)(a)(ii), it is the opinion of the Commission that the name Cambridge Islamic College is too like that of a registered charity, namely Cambridge Muslim College and further that in accordance with section 42(2)(d) the name is likely to give the impression that the charity is connected in some way with Cambridge Muslim College when it is not so connected.

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8. The reasons given by the Commission in the direction for considering that the test in section 42(2) was met were as follows:

"Any decision to make a S42 direction must be in accordance with the law and underpinned by the Commission's guidance and risk framework. Any direction will also need to be proportionate (as required under s16(3) Charities Act 2011). The Commission's usual policy is that we will only formally intervene by directing a name change if it is essential that we do so in the public interest. We say in our published guidance that we will do so in exceptional circumstances and provided all the following factors (the S42 Test) apply (see B13.1 of the OG 330 guidance).

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It is our view that the s 42 Test has been met.

In the context of these two charities the word Muslim and the word Islamic are essentially interchangeable and accordingly Cambridge Islamic College is "too like" Cambridge Muslim College as established by the evidence."

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9. The Commission listed the evidence and information that it had taken into consideration. The Commission went on:

5 “Consideration was given to whether an ordinary member of the public might be confused by the names or might be confused between the Colleges. It was concluded that it is reasonable to accept, in addition to the evidence provided to us, that the public will be unable to differentiate between the two charities, despite their differing objects. This is because there are some significant overlaps and they are operating in the same circles. Indeed the confusion appears to go further as those who know the difference between Muslim and
10 Islamic, as they are part of the Muslim community (or associated with it) are also demonstrating confusion. The solicitors representing Cambridge Muslim College (CMC) have identified this in its case and evidence and it is reasonable to assume that it is also happening without CMC being aware of it (or indeed Cambridge Islamic College (CIC) being aware.) It is likely that
15 those who wish to use each charity as beneficiaries are confused as to which charity they should approach and there is evidence of this.”

10. The reference in the direction to OG 330 guidance is to the operational guidance published by the Commission, OG 330 Names of Charities. The policy statement at the start of the guidance says that the Commission takes a risk-based approach to applying the law. In section B7.1 the guidance states:

20 “In our opinion a main name is ‘too like’ another charity’s main name if there is only a small difference between the two names.

...

B7.3 Key ways in which main names are ‘too like’

- 25 Here are some key ways in which names are, in our opinion ‘too like’

at a glance they look so similar that it would be easy for one name to be mistaken for another

they sound the same and at a glance look very similar, so that it would be easy for one name to be mistaken for another.”

- 30 11. The guidance then gives examples including where the only difference between two names is that they use certain words or phrases which are commonly used in charity names such as ‘association’, ‘foundation’, ‘society’ or ‘trust’.

- 35 12. An appeal against the Commission’s direction under section 42(1) is brought under section 319 of the Act. Section 319(4)(a) provides that in determining such an appeal the tribunal must consider afresh the direction appealed against and may take into account evidence which was not available to the Commission. If the tribunal allows the appeal it may exercise any power specified in the corresponding entry in column 3 of Schedule 6 to the Act. The relevant entry in
40 Schedule 6 specifies that if the appeal is allowed, the tribunal has power to quash the direction and (if appropriate) remit the matter to the Commission or to substitute for the direction any other direction which could have been given by the Commission.

- 45 13. The FTT heard from witnesses called by both parties describing the charities’ respective educational activities. Mr Mohammed Faisal Khaffar giving evidence on behalf of Cambridge Islamic College described how it aims to offer accessible

courses in Islamic studies and Arabic to both Muslims and non-Muslims. It has an extensive programme offering 150 courses to 1200 students. The FTT records that Mr Khaffar took the view that the words “Islamic” and “Muslim” are distinct words with different meanings. In his witness statement he referred to other organisations listed on the register of charities that only differentiate themselves by the words “Islamic” and “Muslim”; for example Muslim Aid is a different charity from Islamic Aid, Muslim Relief is a different charity from Islamic Relief, the Muslim Community & Education Centre is a different charity from the Islamic Community & Education Centre and The Muslim Education Trust is different from the Islamic Education Trust. These have all been registered by the Commission or Companies House without any difficulty.

14. Cambridge Islamic College also called two other witnesses who are not employed by it. Mr Abdul Kayum Arain is the Chair of the Cambridge Muslim Trust which runs the Cambridge Islamic Centre. His evidence was that the names were not similar because “Muslim” refers to the followers of Islam and their relationships to architecture, culture, lifestyle and tradition whereas “Islamic” pertains to the religion itself and is used for matters relating to its sources. The third witness called by Cambridge Islamic College was Mr Muhammad Pervaiz Malak who is the chair of the Cambridge Muslim Welfare Society which runs the Cambridge mosque. His evidence was that “Islamic” and “Muslim” are two different words and that the word “Islamic” is used specifically for matters connected to the religion itself and its sources whereas the word “Muslim” has much broader usage, describing those who follow Islam as well as anything which may be associated with them, though not necessarily with Islam. He said:

“To the community and the public, Cambridge Islamic College and Cambridge Muslim College are clearly different and separate from each other just as they are different and separate from the many other Cambridge organisations such as Cambridge Muslim Trust, Cambridge Mosque Trust, Cambridge Islamic Centre, Cambridge Quranic Centre, Islamic Texts Society, Centre of Islamic Studies, Islamic Manuscript Association, Centre for Islam and Medicine, The Islamic Academy, Young Muslim Academy and Cambridge University Islamic Society.”

15. He also gave evidence that even those without knowledge of the purpose and identity of the two institutions can easily realise that they are different because the word ‘Islamic’ is used specifically for matters connected to the religion itself and its sources whereas the word ‘Muslim’ has much broader usage describing those who follow Islam as well as anything which may be associated with them. His evidence was that the difference between the two words were significant and “sufficient to easily distinguish between Cambridge Islamic College and Cambridge Muslim College”.

16. Cambridge Muslim College called evidence from Dr S M Atif Imtiaz who is its Academic Director. He explained that Cambridge Muslim College offers two full-time programmes. The one-year Diploma in contextual Islamic Studies and Leadership is open to applicants who already possess significant training in traditional Islamic Studies. At the time he made his witness statement there were nine students studying full-time on this course and he said 80 students had

completed the 10 month residential programme since it started. The other course offered from September 2016 was a four-year programme in Contextual Islamic Studies which includes a one-year intensive Arabic course. The entry requirements are at least three B grades at A-level and applicants do not require previous training in Islamic Sciences. He describes this course as a uniquely significant contribution to the development of Islamic knowledge and leadership in the UK at a time of urgent need. There were 10 students enrolled on the four-year programme which is available as a full-time course only. In addition, Cambridge Muslim College offers external programmes which support the dissemination of the Colleges work and build relationships with the local community. Courses offered include a five-day course on *Islamic Approaches to Psychology and Psychotherapy* and a two-day course called *Competing Moral Visions? Liberalism, Feminism and Islamic Tradition*.

17. Dr Imtiaz’s evidence was that whilst there is a technical difference between the words “Muslim” and “Islamic”, they are practically or operationally interchangeable in the minds of the public from whom Cambridge Muslim College’s donors and supporters are drawn. Cambridge Muslim College also called evidence from its Development Officer, Ms Davina Levy.

18. The FTT listed the 25 instances of confusion between the two charities relied upon by Cambridge Muslim College and summarised the parties’ submissions. Its conclusions on the application of section 42(2)(a)(ii) were set out at [49] to [52] of the decision:

“49. We agree with CIC that the first-stage test of “too like” in s. 42 (2) (a) (ii) is a simple visual or aural test. We note that the Commission’s OG repeatedly refers to assessing the similarity of names “at a glance”, which suggests that a similar approach was envisaged.

50. We do not go so far as CMC in adopting a multi-factorial approach to stage one, or so far in the other direction as CIC in ruling out the consideration of evidence in stage one at all. We agree with the Commission that it should not be precluded from considering all the relevant circumstances of a case when it forms its opinion on this first-stage test. However, it seems to us that the only evidence that it would be appropriate for it to consider at the first stage would be evidence directed towards the question of the visual or aural similarity of the names at the time of registration. It does not seem to us that it would be reasonable for the Commission to take into account evidence of generalised confusion or other problems arising at a later date at this first stage.

51. In considering the matter afresh as we are required to do, we find we are not satisfied that the words “Muslim” and “Islamic” are “too like” each other when applying a visual or aural test. They are obviously different words, which look and sound different. We accept that some confusion between them as terms is possible if one takes a conceptual approach, but that is not in our judgement the test to be applied. It seems to us that the very specific time frame for making the stage one assessment, being “the time when the registered name was entered in the register,” supports our interpretation of the test as a visual or aural one, as it seems unlikely that a view about conceptual confusion could reasonably be formed at that time.

52. We acknowledge that the charities' names in this case include two identical words, but there are many other organisations with the words "Cambridge" and "College" in their names and it has understandably not been suggested that the test is failed for this reason alone. In all the circumstances, we conclude that the first stage of the s. 42(2) (a) test is not met in the circumstances of this case."

19. The FTT went on to hold that the section 42(2)(d) test was not met either. There is no appeal against that aspect of the decision.

20. At [54] of the decision, the FTT noted that its conclusions were sufficient to dispose of the appeal in favour of Cambridge Islamic College. They did not therefore need to go on to consider the evidence of confusion or to decide whether to exercise the discretion to make a direction. The FTT described the difficulties that such an exercise would have presented, in particular the unsatisfactory nature of the evidence of confusion adduced by Cambridge Muslim College. The FTT described that evidence as containing much hearsay and as being difficult to test in a meaningful way. The FTT were also unable to satisfy themselves that some of the expressions of confusion relied on were genuine and spontaneous as claimed. They recorded that one alleged instance of confusion concerning a potential donation had been relied on by Cambridge Muslim College in its original complaint to the Commission but had been refuted by Cambridge Islamic College on investigation and was not relied on before the Tribunal. The FTT did not therefore come to any conclusion as to how they would have exercised their discretion had they found that the tests in section 42(2) were met.

21. The FTT quashed the direction. It concluded its decision by encouraging the parties to settle the dispute between them so that further expenditure of charitable funds on regulatory or legal costs could be avoided.

22. The first ground of appeal relied on by the Commission is that the FTT applied an unduly narrow test when considering whether the name Cambridge Islamic College is 'too like' the name Cambridge Muslim College. The FTT erred, the Commission submits, in limiting the test to visual and aural similarity without also allowing a consideration of the similarity in meaning of the words or what Mr Steele appearing for the Commission, called "conceptual similarity". The Commission submits that it is wrong to exclude other forms of likeness when assessing whether charity names are "too like".

23. In my judgment the FTT did apply too narrow a test by limiting the consideration of whether the names were "too like" for the purposes of section 42(2)(a)(ii). There is no justification either in the wording of the statutory provision or from its context and aims for limiting the comparison between two charities' names to the two criteria of aural and visual similarity. I agree with Mr Steele that the words "too like" should be given their ordinary meaning; that is a broad and open-ended meaning rather than a meaning focusing entirely on visual or aural similarity.

24. The FTT put forward two reasons why it held that the only consideration relevant for the first limb of the test is directed to visual and aural similarity. The first was that section 42(3) provides that any direction given on the basis of the "too like" test must be given within 12 months of the time when the name was entered in the

register in respect of the charity. The FTT said that this specific timeframe supported an interpretation of the test as a visual or aural one as it seems unlikely that a view about conceptual similarity could reasonably be formed at that time. However, that seems to me to conflate two separate matters, namely the availability of evidence about whether people have been confused by the existence of the two charities and the similarity in the meaning of the words used in the conflicting names. It was accepted by both parties to the appeal that evidence as to confusion where people mistake one charity for the other is only relevant to the second limb of the test; the exercise of the Commission’s discretion. The similarity in meaning of the words in the names is as apparent on the day of registration as is the similarity in their appearance and sound. I do not accept therefore that the 12 month time limit supports a limited interpretation of the “too like” criterion.

25. The second basis for the FTT’s conclusion that the “too like” test was limited to a visual and aural comparison was that the Commission had envisaged a similar approach in OG 330. It is true that the guidance includes in its ‘key ways’ in which main names can be ‘too like’ the situation where ‘at a glance’ the names look similar. But the Commission’s guidance cannot change the meaning of the statutory provision although it is useful for the public to gain some understanding of how the Commission applies its risk-based approach to considering section 42. Further, I accept Mr Steele’s submissions that other parts of the guidance indicate a broader test is applied by the Commission.

26. Mr Smith on behalf of Cambridge Islamic College put forward additional arguments to support the narrow construction of the term “too like”.

27. First, he relied on the structure, language and purpose of section 42. He pointed out that section 42(2)(a)(i) which applies subsection 42(1) where the registered name of the charity is the same as the name of another registered charity clearly focuses on the aural and visual character of the name. I do not agree that this indicates that conceptual similarity is irrelevant. If the words used are identical then clearly they are going to be the same in their meaning as well as in their appearance and sound.

28. Secondly, Mr Smith relies on the position of section 42 within Part 4 to submit that it is expressly concerned only with registered names. Its purpose is, as he put it, simply to protect the integrity of the register by ensuring that the register does not mislead its users by containing duplicate entries or names which are confusing because they are too close together on the list. Conceptual similarity is not therefore relevant because names which are conceptually similar but different visually and aurally are not going to be adjacent on the list or brought up by the same key word search as each other. I reject this submission. There are other subsections of section 42 that clearly address issues that go beyond the need to prevent the register from being confusing to users. Subsections (b), (c) and (d) deal with where the name is likely to mislead the public as to the true nature of the charity or its activities or status or to give the impression that it is connected with the Government. Those tests seem to me to require the Commission to consider the meaning of the words used in the name – not whether they look or sound like some other words. Those provisions are not concerned with where on the register

the contentious name actually appears. Since the other subsections of section 42 are not limited to visual and aural tests, there is no reason to construe subsection (a) as being so limited. Mr Smith argued that if conceptual similarity is included as part of the test, that makes it more difficult to see where the boundaries of the ‘too like’ test lie. Again, that is a difficulty with which the Commission is expected to grapple in applying the other subsections of section 42(2). It is assisted by Parliament referring in each case to the Commission forming the opinion that the test is satisfied. The inclusion of other factors of similarity does not make the Commission’s task unduly onerous or subjective.

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10 29. Mr Smith’s third point was to rely on a settled practice informed by an established meaning of the identical provision in the Companies Acts in connection with the register of companies. He referred me to the case of *R (oao N) v Lewisham LBC* [2015] AC 1259 where Lord Carnwath JSC said at [95]:

15 “95. In my view this case provides an opportunity for this court to confirm that settled practice may, in appropriate circumstances, be a legitimate aid to statutory interpretation. Where the statute is ambiguous, but it has been the subject of authoritative interpretation in the lower courts, or where businesses or activities, public or private, have reasonably been ordered on that basis for a significant period without serious problems or injustice, there should be a strong presumption against overturning that settled practice in the higher courts. ...”

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25 30. I consider that the test laid down there is very far from being satisfied in this case. Mr Smith conceded that there was no ‘settled practice’ in relation to the words “too like” as they appear in the Charities Act. But he relies on authorities in the field of company names which he says shows that in that context, a visual and aural test is applied. He submitted that Parliament, by using identical language in the Charities Act, must have intended that settled practice to be applied to the register of charities. He referred me to a Hong Kong case, *Re an application by Hong Kong Factory Owners Association Ltd* [1986] HKLR 384 which considered the pre-1948 wording governing the registration of company names. The test then applicable was whether a company name so closely resembled the name of an existing company as to be calculated to deceive. At page 396 Rhind J said that the first stage of that test is to determine close resemblance:

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35 “The element of close resemblance can be determined simply by comparing the names of the two companies. In the language of the cases, this can be done “on the view” ... or “by an appeal to the eye and ear””.

40 31. Rhind J cited two cases in support of that approach to assessing close resemblance. The first was *Ouvah Ceylon Estates Ltd v Uva Ceylon Rubber Estates Ltd* (1910) 27 RPC 753 where Cozens Hardy MR, also considering the pre-1948 company names test, said:

45 “In a case like this it is of course quite true that you must know the surrounding facts; you must know, for instance, that the Plaintiff Company is a rubber Company; you must know whether it has been carrying on business for a substantial time; whether it has got a genuine goodwill attached to its name; and whether it is something more than a bogus Company. But when

you get beyond that, speaking for myself, I think it is a case which may be decided and ought to be decided on the view.”

32. Farwell LJ in that Hong Kong case also said that the first duty of the court in such a case appeared to him to be “to look at the words, and see whether *res ipsa loquitur*.” If the thing does speak for itself - as he held it did in that case - then it is for the defendants to show some reason why deception would not arise.
33. The second case relied on by Rhind J in *Hong Kong Factory Owners v The Society of Motor Manufacturers and Traders Limited v Motor Manufacturers’ and Traders’ Mutual Insurance Company Ltd* [1925] 1 Ch 675. Lawrence J said that the question whether as a matter of fact the defendant company’s name so nearly resembled that of the plaintiff society as to be calculated to deceive, “falls to be determined by an appeal to the eye and ear coupled with a proper consideration of the surrounding circumstances and of the evidence of persons who have come into contact with the plaintiff society’s name”.
34. These cases are in my judgment certainly not authority for saying that the only test to be applied under the pre-1948 company name provisions was a visual and aural test. On the contrary all the judges seem to regard those factors only as a first step in the application of the test. Lawrence J concluded that judging merely by eye and ear there was insufficient similarity but he then went on to consider whether there was anything in the evidence adduced at the trial which displaced the prima facie opinion which he had formed from a mere comparison of the two names.
35. In any event Mr Smith has to overcome two very substantial hurdles in order to make good his point, the first being that these authorities are still relevant to the application of the current, different, test in section 67 of the Companies Act 2006 which refers to names being “too like” and does not require any deception. It seems to me that these words are very different from the pre-1948 words and there is nothing to suggest that Parliament intended any previous interpretation of the “closely resembles so as to be calculated to deceive” test to be brought forward in construing the new wording. Mr Smith relied on some Ministerial statements in the House of Lords in 2006 when the Minister was responding to a proposal to extend the deadline set in the Companies Act 2006 for objecting to a similar company name. He referred to the registrar simply applying a visual test. Putting aside whether such a statement is admissible, I do not see that the Minister was construing the statutory provision, rather he was describing what the registrar’s practice was.
36. The second hurdle is to show that the meaning of the words “too like” in the Companies Act 2006 are intended to bear the same meaning as those words used in the Charities Act. However, the scheme for controlling company names is very different from the scheme for controlling charity names. The companies registrar has an initial power not to register a company which has the same name as another company and there are regulations making provision as to matters that are to be disregarded when considering whether or not names are the same for this purpose: see the Company and Business Names (Miscellaneous Provisions) Regulations 2009 (SI 2009/1085). Thus the circumstances in which a company name is treated as being “the same” as another company name are much broader than is the case

with two charities and can encompass quite significant differences. There is then a separate power in section 67 Companies Act 2006 to direct a change of name if it is “too like” an existing registered name. By contrast under the Charities Act 2011 there is no power in the Commission to refuse to register a charity even if its name is the same as another charity on the register; the only power to control the use of names is the post-registration power in section 42. That power was first introduced in section 4(2)(a) of the Charities Act 1992.

37. There is also force in Mr Steele’s argument that when performing its functions in respect of section 42(2)(a)(ii), as when performing all its functions, the Commission has to bear in mind its statutory duty to act compatibly with, and in order to meet, its statutory objectives and further to act in the way it considers most appropriate for the purpose of meeting those objectives: see section 16. That general duty may import considerations that are not relevant to the exercise by the companies registrar of his functions under sections 66 and 67 of the Companies Act 2006. I agree that it does not make sense in the light of that general duty for the Commission’s powers to be limited in the way the FTT held. Rather it points towards a construction that enables the Commission to consider all forms of similarity.

38. I am not therefore convinced by Mr Smith’s additional reasons for limiting the “too like” test to a visual and aural test. In my judgment the FTT did err in circumscribing the test too narrowly.

39. I therefore turn to applying afresh the test as I have construed it, taking into account conceptual similarity. On this point I have reached the same conclusion as the FTT that the names are not “too like” when one considers a range of factors.

40. First, although I have found that the ‘too like’ test is not limited to visual and aural similarity, that is certainly not to say that those indicators are irrelevant. I agree with what the FTT said at [51] that “Islamic” and “Muslim” are obviously different words which look and sound different. As to the meaning of the words, there was plenty of evidence before the FTT as to the distinction that the witnesses for Cambridge Islamic College drew between the two terms on a conceptual level and of the large number of charities that co-exist where the only difference in their names was the same difference that exists here. The FTT criticised the Commission’s direction for failing to provide any evidential basis for the conclusion that the words Muslim and Islamic are “essentially interchangeable” and clearly did not consider that Cambridge Muslim College had provided any satisfactory evidence to supplement the Commission’s direction.

41. The Commission argues that the FTT erred by focusing on only one word of each of the charity’s names and ignoring the fact that two of the three words in each name are identical. By considering the similarity only of the words that are different, the Commission submits, the FTT was more likely to produce the conclusion that they are not ‘too like’.

42. I agree that it would have been an error not to look at the whole name. The correct test is to ask “Is the name “Cambridge Islamic College” too like the name “Cambridge Muslim College”?” and not just to ask whether ‘Islamic’ is too like

5 'Muslim'. But I do not accept that a fair reading of the FTT's decision indicates
that the FTT asked the wrong question. On the contrary, the FTT acknowledged at
[52] that the charities' names include two identical words but noted that there are
many other organisations with the words 'Cambridge' and 'College' in them. Just
10 as a difference which is limited to exchanging one commonly used word with
another – replacing Association with Society or Trust for example – may not be
enough to prevent two names from being too like if the shared words are more
likely to be the readers' focus, so the similarity limited to commonly used words
is not enough here to make the names "too like" when the different word is
visually, aurally and conceptually different.

43. In the light of my conclusions I dismiss the appeal.

15 **MRS JUSTICE ROSE**
UPPER TRIBUNAL JUDGE

RELEASE DATE: 26 October 2018