

(Cambridgeshire Bus, Coach and Taxi Association)

Woodcote Investigations Ltd

Investigation report

Fenland Association for Community Transport

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Introduction

Fenland Association for Community Transport Ltd (FACT) is an Industrial & Provident Society (IPS) registered with the Financial Conduct Authority (FCA)/Prudential Regulation Authority register number 26756R. The FCA require Societies to submit an annual return form AR30 detailing the Society's activities, statistics and audit information, and an annual report and accounts. It is important to note that the FCA registers an IPS but has no regulatory power over the Society.

FACT reports itself as *"a not for profit organisation serving the Fenland area of Cambridgeshire to people who have difficulties using conventional modes of transport"*. Customers need to be members of the organisation to use the services known as Dial-A-Ride (DAR), Dial-A-Car (previously reported as Dial-A-Bus) or group facilities. Members pay a joining fee which entitles them to use mini buses and cars on a pay or concessionary basis.

FACT employ drivers who operate vehicles authorised with Permit 19 documents issued under the Transport Act 1985 (Sections 18-22). These are issued by the Cambridgeshire County Council on behalf of the Traffic Commissioner. They cannot be used by commercial organisations and a CTO's individual community and commercial operations have to be run "without a view to profit". Advice from the European Commission states *"Their revenues (including grants and contract income) can be legally used only to cover their costs. If CTOs breached the "not-for-profit" requirement, the driving permits under which they operate would be invalidated"*.

The FACT fleet is being allowed to operate on the premise that these permits exclude their drivers from the expensive 'hire and reward' licensing regimes required by commercial companies. For the same reason FACT is believed to be claiming an exemption from the requirement for an Operator's Licence issued by the Traffic Commissioners.

Consequently, FACT drivers are only required to take part in a short 'in-house' training course (known as MIDAS) which is far less demanding – and expensive - than the normal requirements imposed under the Transport Act 1985.

The legitimate use of these permits is disputed in advice obtained by legal Counsel due to not only the commercial nature of FACT's activities, currently representing their main source of income, but also that FACT employ drivers rather than operating on a purely voluntary basis (see expenditure on salaries recorded in annual accounts).

The executive committee of FACT has included a number of Cambridgeshire County Council (CCC) and Fenland District Council (FDC) Councillors, some of whom hold Transport portfolio for the authorities. In addition, two Council Transport Managers have previously been recorded as FACT board members. As a result of complaints of conflict of interest being raised these officers are now recorded in annual accounts as 'Advisor/Observer'.

Since 2010 FACT has expanded its fleet size from 19 to over 40 vehicles, the vast majority being 12 to 16 seat minibuses. This expansion in fleet size directly mirrors a 500% increase in value of commercial transport contracts awarded by the Cambridgeshire County Council over the same period. There remains no evidence this fleet expansion can be supported by an equivalent increase in demand from FACT's community or charitable based work, which since this expansion can be demonstrated to represent less than 2 daily passengers per vehicle owned.

Similar Community Transport Organisations (CTOs) operating within Cambridgeshire, known as Huntingdon Association for Community Transport and Ely & Soham Association for Community Transport (HACT & ESACT). These have recently been placed under the control of FACT and consequently run by the same Manager Mrs Joanne Philpott and governed by the same board.

The relevant legislation in relation to offences committed in respect of such Societies is the IPS Act

1965: (62) “*Offences by societies to be also offences by officers, etc.*”

Every offence committed by a registered society under this Act shall be deemed to have been also committed by every officer of that society bound by the society’s rules to fulfil the duty of which that offence is a breach or, if there is no such officer, by every member of the society’s committee who is not proved to have been ignorant of, or to have attempted to prevent, the commission of that offence.”

The Complaint

In essence, it is alleged by the Cambridgeshire Bus Coach and Taxi Association (‘the Association’) that FACT and its sister organisations are operating on an illegally obtained anti-competitive basis creating the loss of Cambridgeshire County Council commercial contracts. A book of business with a current projected annual value of over £1,000,000, and further private commercial and public taxi centric work.

The Association’s main claims are:

- The operation of vehicles without the correct and legally required licensing affording a huge financial and regulatory advantage
- Vehicle purchases and expansion of fleet through illegal profiteering, cross-subsidisation of public sector grants, misuse of funding and fraudulent fund raising practices
- FACT/HACT and ESACT operating on an anti-competitive basis supported and condoned by officials of both County and District councils
- In favouring these organisations, Council officers and Councillors wilfully neglect to perform their duty and adequately investigate reported concerns and fail to act against offences with a reckless indifference as to whether it is wrong or not.

Vehicle and driver licensing

DVLA and Traffic Commissioner Guidance states there are 2 types of permit issued to Community Transport Organisations under the Traffic Act 1985 (sections 18-22):

- permits issued under section 19 - relating to the use of vehicles by educational and other bodies (issued by ‘designated bodies’ such as local authorities)
- permits issued under section 22 - community bus permits (issued by the Traffic Commissioners)

Section 19 permits are either ‘standard permits’ for vehicles which are adapted to carry no more than 16 passengers (excluding the driver). These permits may be granted to ‘*non-commercial*’ organisations that operate vehicles ‘*without a view to profit to transport their members, or people whom the organisation exists to help*’. Section 19 permit vehicles can’t be used to carry members of the general public.

Vehicles adapted to carry 8 or fewer passengers are eligible to operate under Permit 19 authorities only if used to carry passengers at separate fares. This means that if the CTO use a small vehicle they must charge separate fares. The vehicle must not be available for hire as a whole. CTO’s are likely to need a private hire vehicle licence if they hire the vehicle as a whole.

Section 22 permits are issued to bodies concerned for the social and welfare needs of one or more community. They operate vehicles without a view to profit and use those vehicles to provide a community bus service. Unlike section 19 permit vehicles, community bus services are ‘local bus services’ and can carry the general public. Local bus services are defined as services using public

service vehicles for the carriage of passengers by road at separate fares on which passengers may travel for less than 15 miles.

It is claimed FACT's use of Permit 19 authorities negates it from the requirement for the organisation to obtain an Operator's Licence issued by the Traffic Commissioner.

In 2014 legal opinion was sought by a coach operator regarding the licensing exemptions for Community Transport Organisations and the status of their drivers. Advice was provided by James Segan, a Barrister with Blackstone Chambers. His advice in respect of the requirement for Operators Licences is as follows:

'The exemption from the need to obtain an authorisation which is contained in Article 1(4)(b) of Regulation 1071/2009 ("*undertakings engaged in road passenger transport services exclusively for non-commercial purposes or which have a main occupation other than that of road passenger transport operator*") will not be automatically met by a CTO which is operating under a permit granted under sections 18-22 of the 1985 Act. A CTO is clearly "*engaged in road passenger transport services*". Furthermore, if a CTO is delivering a passenger transport service in return for a payment or other reward, and especially where it is doing so in a contestable market in competition with other undertakings, there is a strong argument that the CTO cannot be regarded as doing so "*...exclusively for non-commercial purposes*" (emphasis). The absence of a profit motive is not decisive in this regard: an activity may be non-profit-making and yet still be commercial'

(It is of note that in response to Freedom of Information requests the Cambridgeshire County Council have repeatedly redacted information under section 43 (2) of the Act, purporting it to be 'commercially sensitive'. In one example (FoI 2744), the Council reasoned the "*disclosure would be likely to prejudice their commercial interests*" (emphasis). It would therefore be difficult for representatives of both FACT and the Cambridgeshire County Council to argue FACT's "exclusively non-commercial" status whilst withholding information on the grounds it would *prejudice their commercial interests*.)

On 23rd October 2015 FACT declared to the Department for Transport (DfT) it was operating 44 vehicles eligible for a BSOG (see **Bus Service Operators Grant** below). Information obtained through FoI requests have established as of July 2015 Cambridgeshire County Council had issued 49 Permit 19 authorities to FACT, and an additional 23 permits have been awarded to its sister organisations HACT & ESACT.

The financial advantage of operating under Permit 19 authorities is substantial. The advice of the Community Transport Association (CTA) is that organisations need to prove to the Traffic commissioner that they have the appropriate financial standing, which means they have access to the following amounts of money:

In respect of the first vehicle an organisation would need to demonstrate they have financial access to £8,500 and for each additional vehicle £4,500. Therefore, the required financial burden of accessible capital FACT would require through operating under Permit 19 authorities would be in excess of £300,000.

It is further assumed that FACT's use of Permit 19 authorities negates its drivers from the requirement to obtain a D1-class licence and a Certificate of Professional Competence (CPC). These exemptions are based on driver's activities being undertaken for "Social" "Voluntary basis" or for "Personal use only". Once again, referring to legal Counsel's advice:

"The requirement for drivers to obtain a D1-class driving licence:

‘The exemption from the need to obtain D1-class driving licence, which is contained in regulation 7(6)(e) of the UK Driving Licences Regulations, which implements Article 6(4)(a) of the EC Driving Licences Directive (“...*non-commercial bodies for social purposes and ... the driver provides his services on a voluntary basis*”) again does not appear to be open to most CTO drivers. CTO activities are frequently incapable of being described as “*non-commercial*” at all; the purpose of such activities is not obviously “*social*”; **and drivers are frequently paid** rather than delivering their services on a “*voluntary basis*”. It follows that very many CTO drivers will be committing a criminal offence if they drive D1-class vehicles for the CTO without obtaining a D1-class licence’. (Emphasis)

Examination of FACT 2013 annual accounts under “general expenses” identifies £67,097 paid in “staff salaries” with an additional £304,280 being accounted as “Casual relief wages and expenses”.

Counsel’s advice in respect of the requirement for drivers to obtain a Certificate of Professional Competence (CPC) states:

‘The exemption from the need to obtain a CPC which is contained in regulation 3(2)(f) of the UK CPC Regulations, which implements Article 2(f) of the EC CPC Directive (“*non-commercial carriage of passengers or goods, for personal use*”) does not appear to be open to CTO drivers at all, for two reasons. First, as explained above, CTO activities are frequently incapable of being described as “*non-commercial*”. Secondly and in any event, a driver for a CTO – especially if paid to do so – is clearly not carrying passengers “*for personal use*”. It follows that all CTO drivers must possess CPCs and will be committing a criminal offence if they fail to obtain one’.

It is confirmed on the FACT website and repeated in funding applications that their drivers are trained to ‘MiDAS standards. On the HACT website a clearer declaration is found; “*All drivers are trained to a nationally recognised standard – MiDAS (Minibus Driver Awareness Scheme) which is administered nationally by the Community Transport Association UK (CTA)*”. (Two MIDAS certificates are currently held and obtained through ex-employees of FACT)

Costs involved in the licensing of drivers by commercial companies are another substantial component of the overall running costs of passenger transport businesses. Due to the limited training required to drive vehicles under the authority of Permit 19, drivers can be recruited and trained by FACT in days rather than months, generating an additional advantage when tendering for short notice contracts invited by Cambridgeshire County Council.

In summary, legal advice is that as Community Transport Organisations FACT/HACT and ESACT are potentially acting unlawfully without an Operator’s Licence, and these organisations and their drivers are acting unlawfully *if driving for them other than on a non-commercial, voluntary, social or personal basis*.

Issuing Permits

Gavin Moulton is a Cambridgeshire County Council officer in the passenger Transport Services department and is responsible for issuing and signing Permit 19 authorities on behalf of the Council. In Annual accounts 2006-2012 Mr Moulton had been declared as a board member to FACT. This status was also confirmed in a declined application for registered charity status in 2009.

The Head of Transport Services for Cambridgeshire County Council (Joseph Whelan) was advised of this potential conflict of interests. He claimed Mr Moulton’s board status was declared in error and as such, in his opinion, Mr. Moulton’s role as a Cambridgeshire County Council officer is not compromised by his relationship with FACT. Mr Moulton is currently described on the FACT website as ‘Advisor/Observer’ and in the same capacity as part of the Executive Committee in the FACT Report and Accounts for year ending 2013.

Following Mr Whelan's response, Mr Moulton's signature confirming his FACT trustee status was discovered in a funding application made to the Fenland District Council in 2009 (FoI request 2619 dated 20th May 2014, Page 57). This document was again used in another funding application for £17,700 for two additional buses in 2012.

No further response has been received from the Council reading this issue.

It is also stated within FoI 2619 that Mr Moulton receives detailed data regarding FACT's community ridership figures. It is therefore suspected that Mr Moulton would not only have to be fully aware of the massive increase in commercial contracts awarded to FACT, but also realistically mindful as to the lack of community demand to warrant the huge expansion in fleet size which he has authorised under section 18-22 of the Traffic Act 1985.

(Licensing Update, added by Mr D Humphrey 11th April 2016

Since the completion of this report a CTO in Staffordshire, operating under permit 19 authorities, was subject to a random investigation by the DVSA, a recent article states *"it is unclear what action the DVSA took on site but the result was the council suspended all nine of the CTO's contracts"* the Council stated *"it says it took action to suspend the contracts as it was initially unclear if there had been a change to guidance that it was unaware of, and did not want to put individuals or operators at risk if the rules had changed"*

Editor of the CambsTimes John Elworthy contacted the CCC and a number of other officials on the 7th April 2016 seeking clarification as to the Council position regarding licensing of drivers operating educational contracts. The Council representative a Mr Cobby Simon responded the following day and made reference to another article found in the RuoteOne magazine that the DVSA are not going to take any further action against the CTO in Staffordshire, Mr Simon consequently released the following response.

"Cambridgeshire County Council – together with a large number of other authorities - believes that it is acceptable for community transport operators to have home to school contracts, but that we appreciate that some operators disagree with this view. The decision by the DVSA not to pursue the matter would appear to support our view and we therefore see no reason at present to change our current position. We will therefore continue to use community transport operators, who are highly regarded by the public and parents. We will continue, as always, to monitor any legislative changes or legal challenges."

Firstly Mr Elworthy did not raise concerns as to whether *"it is acceptable for community operators to have school contracts"*. He raised concerns as to whether the drivers of CTO's operating Council transport contracts were properly licensed.

Secondly, and potentially why the Council attempted to side step the issue, there is no requirement for the Council *"to monitor any legislative changes"* as the legislation and guidance is 100% clear. Unless using the vehicle for personal use Permit 19 holders need to have a driver CPC (current DVSA guidance for permit 19 drivers can be found at <https://www.gov.uk/government/publications/section-19-and-22-permits-not-for-profit-passenger-transport/section-19-and-22-permits-not-for-profit-passenger-transport>)

Section 12 *"Driver's Certificate of Professional Competence (CPC) has been introduced across the European Union to maintain high driving standards and improve road safety. The requirements are set out in the Vehicle Drivers Certificates of Professional Competence Regulations 2007 (S.I. 2007/605) which implement EC Directive 2003/59/EC."*

You must have Driver CPC to drive a category D1, D1+E, D or D+E vehicle or vehicle combination, unless one of the exemptions applies. You must take 35 hours of Driver CPC periodic training every 5 years to maintain this qualification" (emphasis)

The CTO's in question, FACT/HACT and ESACT make the public declarations on their websites their drivers are trained to the far less demanding MiDAS standard, which is not only done in house but also has no statutory value. In casual conversation some FACT drivers have confirmed they haven't taken the CPC training and the association hold two ex-FACT drivers MiDAS driver competence certificates.

Referring back to legal council's advice, the only exemption that has any relevance is "*non-commercial carriage of passengers or goods, for personal use*". FACT/HACT and ESACT are paid employees, which can be demonstrated in a number of ways, and they are operating commercial contracts. Consequently it cannot be argued these drivers are operating a D1 class vehicle on a "*Non-Commercial*" bases "*for personal use*".

At the first hint of uncertainty the Staffordshire County Council acted responsibly and immediately withdrew nine contracts with a motive to protect individuals. Despite the above information being supplied to the CCC, by attempting to side step such an important legal and safety issue, they appear to be demonstrating an intent to take the opposite approach.

It is clear there exists a distinct possibility that CTO drivers in Cambridgeshire, if operating without such licensing are criminally transporting people's children to school and potentially in full knowledge of representatives of the Cambridgeshire County Council, a level of conduct that appears to run consistent throughout this report.

Of further note, in relation to CTO's needing proper licensing RouteOne report "*Their counter argument is that because the organisations are not set up to make a profit, and contract income goes to defray expenses, they are exempt*"

In the case of FACT how can it be argued "*income goes to defray expenses*" when they have managed to generate such an excess of income to afford to expand their fleet from 23 vehicles to over 40 in just four years to service a 500% increase in commercial undertakings!)

Community and Charitable Demand

Dial A Ride

The website <http://www.fact-cambs.co.uk> shows FACT operate four fixed Dial A Ride routes; Central, North and North-West. These run three times a day and the West route which only runs once a day Monday to Friday. There are also a minimal number of "special" services - for example daytrips to towns and cities outside the immediate area - accounting for 1 or 2 journeys per week.

As part of a Service Level Agreement (SLA) with both the FDC and CCC to operate a bus pass concession system FACT are required to produce monthly and quarterly ridership figures and statistics in relation to their Dial A Ride service. The concessionary scheme relates to pensioners and other eligible groups. Such individuals are issued with a pass entitling them to free bus travel which is reimbursed to the CTO by local authorities. Using figures for October 2013 to March 2014 released in FoI 2620 dated 7th May 2014, the number journeys made for each of the individual daily runs can be summarised as follows:

	Central	North	North-West	West
Passengers per bus	10.7	3.22	4.56	6.35

(Figures from FoI request 2620 have been divided by number of months, weeks, 5 days and number of runs for each route, 3 for Central, North- West and North and 1 for the west route, at this time FACT were operating approx 35 vehicles)

The following annual statistics have also been reported under the SLA with the FDC and released through FoI request 3242 dated 21st July 2015:

	2011	2012	2013	2014
Dial A Ride Journeys	16,523	19,998	17,716	16,479

Using invoices taken from FoI 2677 an average Dial A Ride fare can be calculated at approximately £5.50. When this figure is reconciled with the income declared in annual returns, this gives results which are reasonably consistent with above figures, therefore confirming the above demand.

Dial A Car

Dial A Car services are for members to book outside the timetabled Dial A Ride service routes and the vehicle will be hired on a private basis. FoI 2744 covers a nine month period of 2012. During this period there were 1,093 one way journeys reported. This is 121 journeys per month which equates to 3 return journeys per day, illustrating an apparent lack of demand for this service at that period of time.

Group Bookings

The FACT website states: *“Our vehicles are available to local community groups/non-profit organisations whose activities are concerned with social welfare, recreation, cultural or similar purposes”*. Groups are required to obtain membership to be eligible to make bookings. In 2012 FACT declared 230 group bookings, less than one per day. More recently, FACT has conflated these figures with commercial activity such as educational contracts, and it is therefore impossible to establish how many ‘group bookings’ actually relate to community groups and non-profit organisations.

Conclusion

As declared in the annual returns at the end of 2011, FACT was operating 23 vehicles. Below is a comparison chart to other Dial A Ride services made in 2013 when FACT had expanded its fleet to 35 vehicles. The cost per passenger for FACT is far in excess of other similar schemes operating in other areas. The other Dial A Ride schemes are registered Charities and information comes from their websites and Charity Commission registered accounts:

	Buses	Members	per bus	Passengers	per bus	Total costs	cost per passenger	Fuel
Swindon	10	1079	108	58,000	5,800	280,500	5	31,000
Reading	25	3000	120	164,000	6,560	1,200,000	7	
Grimsby	14			50,000	3,571	221,500	4	52,000
People to Places	11	521	47	56,000	4,454	411,000	7	64,000
FACT	35	1038	29	18,000	514	652,000	36	112,000

(Passenger figures for FACT are approximate figures for community work only. The figure with its commercial passengers added would have been approximately 64,000 passengers)

Despite the lack of demand demonstrated by these figures FACT, have continued to expand its fleet and are currently operating almost 50 vehicles.

It is alleged there exists a distinct lack of community demand demonstrated through figures released through FoI requests and reconciled with income declared in annual returns. It is believed this represents clear evidence that FACT's 100% increase in fleet size is motivated by commercial ambitions rather than its charitable responsibilities as a CTO, which as can be demonstrated represents fewer than 2 daily passengers per vehicle owned.

Vehicle purchases

It is suspected the purchase of capital assets by FACT, specifically additional vehicles used to service commercial contracts as well as the provision of Community Transport Services has been concealed within their annual accounts.

The 'Notes to the Accounts' for year ending 31/12/13 (and in previous years) consists of nine sections; Accounting policies; Deferred accounts received; Tangible fixed assets; Debtors; Cash at bank; Creditors (within one year); Creditors (due after one year); Share capital and Capital reserve.

Examination of the Notes to the Accounts for year ending 31/12/12 has identified for this year the Tangible fixed asset note is missing, a document that would give details of any additions or disposal of vehicles.

Examination of the Tangible fixed assets section of the Notes to the Accounts for year ending 31/12/11 shows the net cost of vehicles to be £330,545. Similar examination of the Notes to the Accounts for year ending 31/12/13 shows the net cost of vehicles to be £501,393. This demonstrates a total value of £170,848 has been added to the FACT fleet during 2012, it can be demonstrated that during this year FACT expanded its fleet from 23 to 34 vehicles, a 50% increase.

This and further expansion could only have been funded through the following ways, all of which would have to show in the FACT accounts.

Profit: Advice from the European Commission states (64) "*(CTO) revenues (including grants and contract income) can be legally used only to cover their costs*". It is suspected rather than generating revenue to adequately cover cost of its charitable work, excess income from FACT's operations has been used to purchase vehicles, doubling the size of their fleet with the sole motive to increase its commercial undertakings.

Grant: Examination of grant funding applications that have been made available specify funds are required to purchase vehicles to be used for community work, not for commercial expansion (see '**Evidence of fraudulent fundraising**' below). It cannot be argued by using funding to operate commercial contracts, revenue is used to support FACT's community based activities. Advice from the Community Transport Association (CTA) shows this would still be classed as operating '*with view to profit*' and FACT would be legally required to set up a separate trading arm which would have to operate under the same licensing regime as any commercial company.

Loans: No such financing arrangements are shown in the accounts.

Reserves: No proportionate reduction in reserves is shown in the accounts consistent with the expansion of the fleet.

(Note of interest; FACT's 2011 executive meeting (Annual accounts page 13) "*Kit Owen asked if vehicles are registered as assets, Jo Philpott confirmed this*". (FACT manager Jo Philpott is a trained accountant) Examination of annual returns demonstrates during the accounting years 2012/13 FACT declared grants against "Income" totalled £221,323. This figure directly mirrors the 'Cost' added to 'Tangible fixed assets' which totalled £220,538. A more up to date example is unavailable as at the

time of writing FACT's 2014 annual returns are several months overdue and requests for them to be released have been ignored.)

With a current recorded fleet size approaching fifty vehicles it is alleged that this 100% increase that mirrors the 500% increase in the value of FACT's commercial operations has been funded unlawfully.

Grants and Finance

The above allegation can be supported based on documented evidence obtained identifying how the FACT commercial expansion appears to have been funded through the cross-subsidisation of restricted public sector funding, misuse of grants and fraudulent fund raising practices.

The department for Transport (DfT) provide guidance to local authorities in relation to the provision of financial support for 'Community Transport Services' (CTS).

DfT guidance states *"the CTO should be required to keep accounts that enable the local authority to verify the organisation's costs and revenues of operating the supported CTS and ensure that the grants and revenues received are not being used to cross-subsidise other services or activities, and where the organisation's activities are not limited to providing the supported CTS, it will need to put in place internal accounting mechanisms to ensure that such accounts are available and are prepared in accordance with generally accepted accounting principles."*

Local authorities should ensure that public funding which they provide in any form whatsoever in support of community transport services is not used by the beneficiaries to cross-subsidise commercial activities, and must ensure that where the undertaking also carries out activities falling outside the scope of the 'service of general economic interest', only the costs related this should be covered by public funding."

The guidance concludes *'Otherwise such beneficiaries would have had an unfair competitive advantage over private non-subsidised commercial operators participating in these tenders'.*

Examination of FACT's accounts for year ending 31/12/2006 – 31/12/2013 has identified that their income is principally derived from grants, donations, the hire of mini buses and cars, educational and social care contracts and their community service 'Dial-A-Ride fares' and memberships.

The principal organisations providing grants to FACT during this reporting period are Cambridgeshire County Council, The DfT BSO, Fenland Primary Care Trust and the Fenland District Council. In addition, smaller grants have been made to FACT from a variety of charitable trusts, Town and Parish Councils.

During this period the accounts demonstrate FACT's commercial undertakings has been concealed through the mixing of its revenues with other services under the heading "Hire of minibuses and cars".

Through pressures from the local press for more transparency, in 2013 FACT separated its (public sector) commercial revenues. However, FACT continued to mix the operational costs of their commercial and charitable undertakings denying the same level of transparency making it impossible for *"the local authority to verify the organisation's costs and revenues of operating the supported CTS"*.

Cambridgeshire County Council Annual Grant

Examination of FACT's accounts 2006 – 2013 and the Council's declarations of "Payments to suppliers" 2014- 2015 indicate FACT have received 'annual' grants from Cambridgeshire County Council totalling £342,055. Grants are recorded in the accounts as 'restricted' and 'unrestricted'.

In line with DfT guidance, the purpose of these annual grants is to support Community Transport Services, i.e. the provision of FACT's Dial-A-Ride service and is 'restricted' to this use.

A generic Grant Funding Agreement obtained from Cambridgeshire County Council confirms that *'The funding is provided to (operator name) as a contribution to the overall costs of providing the services below and **may only be used for that purpose**'*. (Emphasis)

(In a similar case referred to the European Commission the Department for Transport advised (66) *"funding awarded by Derbyshire County Council was **correctly** reported as **"restricted funds"**"* (emphasis) (Brussels, 04.06.2015 C (2015) 3657 final).)

It is suspected the awarding of the Cambridgeshire County Council annual grants which are accounted by FACT as *'unrestricted'* gives them the opportunity to use this as finance to cross subsidise commercial contracts, contrary to DfT guidance.

In FoI request 2744 dated 18th April 2013 Cambridgeshire County Council was asked to supply information surrounding FACT's terms and conditions of funding.

Question six of the request was in relation to "performance indicators" which are consistent with DfT guidance:

"Please could I have a copy the Quarterly service performance indicators (for 2011 and 2012), for each service operated as stated in section 3.1 to 3.5, 3.6 and 3.7 of the agreement. This would include:

- (a) Total number of single passengers journeys undertaken (a passenger journey is defined as a one-way journey, therefore the outward and return parts of a return journey are counted as two single passengers)*
- (b) Total miles travelled*
- (c) Revenue received from each service operated*
- (d) A breakdown of number of individuals and group members by parish*
- (e) Total number of group hire bookings including total number of passengers carried, mileage and revenue received.*
- (f) Total number of unmet requests and journeys not operated Cambridgeshire County*

Response; *"Council only holds information on (a) and (b). Please see the attached document, APP2. The Council does hold information that includes that requested in (e); however, it also includes school journeys. As the Council does not hold the raw data, we are unable to separate the school journeys from the rest and providing this would not give you with an accurate picture. Please advise if you wish to receive this information anyway."*

An internal review was requested by representatives of the Association. This was ignored, and subsequently only released as a result of a complaint made to the Information Commissioners Office (ICO). However, since the offer to provide information was made the Council has changed their position and refuse to give information on the grounds that (e) as *"disclosure would **prejudice the commercial interests of FACT**"* (emphasis).

In a further response to (c), (d) and (f) of the request the Council confirmed data had *not* been collected through the "performance indicators" stating:

*"I have established that this is still the case and that we do not hold the information covered by points (c), (d) and (f). It should be noted that these categories were taken from a previous generic agreement but have been reassessed and are no longer required. We do not hold those legacy details for FACT and agreements have been updated so that **these performance indicators are no longer included in the agreement**"* (emphasis).

This response appears to confirm Cambridgeshire County Council's apparent obstinate defiance of DfT guidance. In FoI request 3405 dated 26th November 2013 the Council was asked to "*supply any evidence held to show that the funds for each grant have been spent appropriately*".

The response received stated "*The Council has no specific requirements to know exactly how funds are spent*". The Council attempt to convince the enquirer that grants are the same as tendered contracts and the response continues "*It is clear the funds are being spent for their intended purposes*". The Council support this claim with the rather nonsensical argument that as FACT "*are providing the services*" (through Dial A Ride) the grant must have been used for its intended purpose.

On the 28th February 2013 a meeting was called by MP Steve Barclay and was attended by the FACT chairman Charles Jenkins, Board Member Jillian Tuck (Ex CCC Leader), FACT Manager Joanne Philpott, CCC Head of Transport Joseph Whelan, FDC Licensing Officer Kim Winterton and four representatives of the Taxi industry. Within this meeting the MP requested that Kim Winterton undertake an Audit into the operations of FACT within 30 days.

In a letter from MP Steve Barclay dated the 19th March 2013 and addressed to the FDC Auditor Kim Winterton, the MP confirms his instruction stating "*you agreed to carry out two specific actions*" one of which was to "*to check that grant funding for 'Dial A Ride' scheme is ring-fenced and is not being used to cross subsidy other parts of the FACT operation*".

Despite the "unrestricted" status of the relevant grants as recorded in FACT's annual returns an inspection of the FDC Audit dated August 2013 identifies no such investigation of this nature is recorded in the audit (see **Council's wilful negligence** below).

In a letter dated 11th July 2014 The CEO of Cambridgeshire County Council Mark Lloyd stated in reference to these annual grants "*I would note these are made to FACT for a specific purpose and in our view, have provided the opportunity to provide accessibility to parts of our community that **live in the most isolated areas** of the county*" (emphasis).

Examination of ridership statistics received by the FDC under the SLA they hold with FACT and released via FoI request 2677 indicates before the MP's meeting FACT had been declaring journeys originating from "isolated areas" as representative of 65% of their Dial A Ride service.

FoI Request 2677 shows that during the period from the MP's meeting (when FACT were informed they would be investigated) and the release of the FDC Audit the number of Dial A Ride journeys originating from the most 'isolated' villages fell by 75%. At the same time the number of journeys originating from the main towns grew by 150%. Overall numbers of journeys remained consistent. These inexplicable changes of behaviour from two distinct sectors of the community resulted in the demand of those suffering from 'rural isolation' falling from 65% to just 12.5%. A further FoI request indicates this lower figure remains current.

Correspondence records how members of the taxi industry have attempted to raise their concerns over these specific issues with officials of both District and County Councils; to date no response has been received.

It is alleged both County and District Councils are not only operating in breach of DfT guidance but are taking active steps to reduce transparency by removing "performance indicators". It is also alleged that the Councils' refusal to properly investigate complaints allows FACT the opportunity to cross-subsidise restricted funds to benefit their commercial interests.

There is a strong argument as to why CCC continues to support FACT with a £40,000 annual grant. When firstly, the funding specific justifications to assist individuals effected by '*rural isolation*' appear to have been massively embellished. Secondly, FACT is supposed to be a "not for profit"

organisation which has managed to generate such an excess of income to enable it to double its fleet size in just four years to service a 500% increase in Cambridgeshire County Council commercial undertakings.

Cambridgeshire County Council £200,000 financing to launch HACT

HACT was registered with the Charity Commission on the 28th March 2013, registration number 1151445. The organisation is run from the same registered address as FACT based in March Cambridgeshire. The organisation operates under the same Permit 19 authorities issued by CCC Transport Manager Gavin Mouton, is run by the same Manager – Joanne Philpott - and governed by the same board.

The Dial a Ride & Dial a Car services are referred to as “Ring A Ride” & “Ring a Car” and in common with its sister organisation FACT, HACT offers group facilities and members must pay a joining fee to use the services on a cash or concession basis.

Examination of HACT’s first annual returns, year ending 31st March 2014 indicates ‘incoming resources’ (Page 6) recorded as:

- ‘From generated funds Voluntary income’ £118,914 (consisting of £82,293 unrestricted grants and £36,621 of restricted grants).
- ‘From charitable activities’ £288,049 (unrestricted)

Note 13 (on page 13 of the accounts) details “*Restricted income funds*” consisting of grants from 11 charitable trusts totalling £22,400, a CCC radio grant of £4,753, a Huntingdon District Council grant of £15,850 and a Cambridgeshire Future Transport (CFT) grant of £164,548 issued by the CCC giving a total of £207,551 of which £36,620 is recorded as “Recognised in year”. Therefore it’s alleged the CCC was largely responsible for financing the launch of this CTO.

FoI Request 3348 dated 7th November 2013; App 1 consists of an undated funding application from HACT to the Cambridgeshire County Council. The ‘Bid Name’ in this application is stated to be “Launch of HACT”.

The application declares HACT is a registered Charity that will provide a seven day a week service catering for the needs of 500 residents as well as many social groups. Under the title “LAUNCH OF HACT” the application states “We are launching a new Ring & Ride service for the Huntingdonshire area”.

There is a section for ‘Outgoings’ with the headings:

- “Total revenue costs (Running costs)” and
- “Total Capital costs (Purchase of equipment)”.

Information in both sections has been redacted (again to protect HACT’s commercial interests).

Section “Total Bid Cost” contains the figures “174,294.98 + 27,567.97 VAT = 201,862.95”.

Section titled “Income” has been left blank.

Section titled “Grant Request” details:

- Total cost 201,862.95
- “Amount required for loan required 27,567.97”
- “Amount of Grant Requested 174,294.98”

The final page consists of the undated electronic signature of Joanne Philpott and her position as Manager.

FoI Request 3348 App 4 supplied the following information:

“Initial costs

“Phone line set up at FACT - Diversion of calls for 12 months - Diversion of post for 12 months - website –start again, sign writing - initial extra staff costs - Marketing/publishing/questionnaires – Uniforms - Mobile phones”.

Vehicles

- Bus 1
- Bus 2
- Bus 3
- Bus 4
- Buses 5 & 6
- Buses 7 & 8

All columns for costs against each item are blank and is noted the Council once again refuses to supply this information under section 43 (2) of FoI (commercial interests).

The response confirmed the total funding to be paid against the application as £201,862.95.

The HACT accounts shows funding from Huntingdon District Council (HDC): a grant of £15,850 for a “hybrid vehicle” (denoted as restricted funds) plus a further £50,000 denoted as “Unrestricted”.

The DfT Guidance states:

“Beneficiaries which receive public funding in the form of vehicles must in principle not use these vehicles to provide transport services procured by local authorities in competitive tenders. However, if the CTO uses the vehicle provided for the ‘service of general economic Interest’ is also for other activities (for instance, 50% for the service and 50% for the other activities) only 50% of the cost of the vehicle can be subsidised by the local authorities.”

Inspection of the Cambridgeshire County Council “payments to suppliers” indicates payments made to HACT for the year ending 31st March 2014 for ‘Home to school’ commercial contracts was £70,377.08. HACT received further commercial payments of £97,330.09 under the title of “Subsidised Bus Routes”.

It is alleged that this commercial revenue represents 58% of HACT’s total earned income for the tax year ending 31st March 2014 and has been concealed in its annual returns under “*from charitable activities*”.

(HACT’s 2014/15 accounts have been released demonstrating for “Charitable Activities” additional earnings of £118,642 a 41% increase over the previous year, giving a total of £406,691. Examination of the CCC website “Payments to suppliers” identifies of this increase 77% (£94,735.78) has been generated operating further commercial contracts for the CCC.)

FoI Request 3509 dated 17th December 2013 requested details of Cambridgeshire County Council commercial contracts awarded to HACT. The council declared 4 ‘Home to school’ contracts were awarded to HACT on 1st April 2013 (contract numbers PTP02, PT04, PT03, 925). A further contract was awarded on 10th September 2013 (Contract number ON45).

It is of note the Council response states the four contracts awarded on 1st April 2013 were issued “*under emergency powers*” and had previously been operated by ‘Nene & Ouse’ Dial A Ride.

Further inspection of “payments to suppliers” made per month indicates up to 9 contracts (6 ‘Home to school’ contracts and three subsidised bus routes) were being operated, one for each of the eight buses funded by CCC and one for the bus funded by the HDC.

The response to FoI request 5709 dated 6th October 2015 States bus routes 46a and 150 were also issued on the 1st April 2013, again under “*emergency powers*”.

Investigations into these routes using the Cambridgeshire County Council website indicates these are conventional commercial timetable bus routes operating continuously from 08.00 hours to 18.00 hours for contract 150 and 08.15 hours to 17.52 hours for contract 46a.

It is alleged, contrary to DfT guidance, that public funding has financed the significant percentage of the HACT fleet at its launch on 28th March 2013. It is also alleged that at least two of these vehicles fulltime occupation from 1st April 2013 is servicing of Cambridgeshire County Council commercial bus routes. Evidence supports further allegations the remaining vehicles funded by the CCC are being operated on a part time basis to fulfil several home to school contracts to the benefit of Council.

HACT’s accounting indicates the awarding of £50,000 from the Huntingdonshire County Council and an annual £12,095 grant from the Cambridgeshire County Council restricted to support HACT’s community objectives has been accounted by HACT as ‘*unrestricted*’.

It is alleged such accounting procedures along with the concealment of commercial income under “Charitable activities” is allowing HACT the opportunity to use these grants as finance to cross subsidise commercial contracts, again contrary to DfT guidance and therefore to obtain an competitive advantage over private commercial operators.

It is apparent that the issuing and reissuing of a Commercial bus route 150 under “Emergency powers” was made against procedures set out within the Councils Contract Regulations. The Council have currently not been able to supply the required “Exemption Requests” to issue the four ‘Home to school’ contracts and remaining bus route 46a under Emergency Powers. (See “**Commercial Contracts**” below).

HACT has already began to follow its sister organisation commercial expansion and has added additional new vehicles to its fleet in the first two years, again with a lack of community demand to warrant such additions.

Additional concerns with HACT Cambridgeshire County Council Funding

The grant application to fund the launch of HACT found in FoI 3348 was for £174,294.98 plus VAT of £27,567.97 (VAT portion paid in the form of a loan). The copy of the grant application supplied is undated. Further examination of FoI Request 3348 shows an application for a grant of £4,753 and a loan of £4,753 for radios submitted on behalf of HACT (see **Purchase of Radio Equipment** below).

FoI Request 3294 dated 10th October 2013 requested the Council to “*list all funding awarded to HACT, including copy of applications and conditions of grants*” and to “*give purpose for funding*”.

The Council’s response stated it had awarded HACT a grant of £11,750 “*to support community transport dial-a-ride schemes*” and in addition “*there have been grants totalling £179,048.46 given from the Council’s Community Transport Fund*”. This response includes “Terms and Conditions” confirming grants are of a “restricted” nature.

The £11,750 was approved to assist HACT with “Cash flow”. Inspection of the Councils ‘payments to suppliers’ indicated this grant was actually paid to **FACT** (not HACT) on 18th April 2013.

Under an internal review (FoI Request 5420) the Council advised that HACT “*did not have a business bank account in which to deposit the funds*”. This appears contrary to HACT receiving payments of £40,222.95 and £161,920.00 four weeks earlier on 26th March 2013 as identified on the Council’s website. FoI Request 5779 confirms these payments were made by CHAPS transfer but does not state into which account they were made.

It appears unlikely the Charity Commissioners would register HACT as a Charity without the applicant having a bank account.

It is of note when the Council was questioned about this £11,750 grant in FoI Request 4063 dated 5th June 2014 it was refused on the grounds ‘*The council considers this request to be vexatious*’ (emphasis).

Further inspection of the Cambridgeshire County Council “Payments to suppliers” indicates in the year ending 31st March 2014 the Council made four payments to HACT under the heading “Community Transport Grants (CTG)”:

- £40,222.95 and £161,920.00 on 26th March 2013
- £1,500 on the 26th July 2013
- £9,506.95 paid on 4th November 2013.

Examination of HACT’s first year accounts ending 31 March 2014 can only identify the following grants received from the CCC:

- Note 2 (page 9) “Voluntary income” shows “unrestricted” grants “CCC CFT 7,595” and “CCC annual grant 12,095” (payments to suppliers gives date of payment as 28/4/2014) and
- Note 13 (page 13) “Restricted income funds” shows “CCC CFT 164,548” & CCC Radio Grant £4,753.

In FoI 5779 an explanation as to these massive disparities was requested. On 10th January 2016 the Council was reminded that this request was more than 40 days old and no response had been received. A further request was made on 21st January 2016. The Council asked for more time stating the applicant would receive an answer by the 5th February 2016. The Council was contacted again on the 10th February 2016; this request still remains unanswered, and to date no response has been received.

It is also worthy of note, within this request the Council were asked to confirm their claim that all the information held by the Council concerning the release of £201,862.95 of public funds to launch HACT is an *undated* application form. To date no response has been received.

Of further note there appears no record in the accounts of FACT or HACT for the £11,750 applied for by HACT and paid to FACT.

As well as the major discrepancies identified within the funding of HACT it is alleged there is the cross-subsidisation of “restricted” funds between organisations.

Purchase of Radio Equipment

The response to FoI Request 3348 shows two further applications were made on behalf of FACT and HACT for a combination of grants and loans totalling £35,213.79 for the purchase of radio equipment.

App 3 is an application dated 4th February 2013 from FACT for £25,706.83 to purchase Communications Equipment. This was confirmed to represent 100% of the “project cost” and has been broken down as £23,136.15 loan and £2,570.68 grant.

App 2 is an application dated 29th July 2013 from HACT for £9,506.96 to purchase Communication Equipment. This was confirmed to represent 100% of the project costs and has been broken down as £4,753 loan and £4,753 grant.

The application declares a quotation from “Direct UK Radios” was submitted.

Both applications held the electronic signature of Jo Philpott. Much information has been redacted from both applications.

Concerns relating to these applications are summarised below:

- In respect of costs quoted in App 3, internet searches suggest the costs of even reasonably sophisticated equipment for the 35 vehicles FACT owned at the time would attract a price of no more than £10,000-£12,000. (<http://www.maximonsolutions.com/shop2/two-way-radios-for/taxisand>)
- In respect of costs quoted in App 2 for radio equipment for HACT totalling £9,506.96, FACT would have already purchased a central hub unit in March 2013 suggesting this application is for radio/GPS vehicle units only. Internet searches indicate the cost of these devices range from £150 to £400 for each of the nine vehicles HACT owned at time of application (<http://www.maximonsolutions.com/shop2/two-way-radios-for/taxisand>).
- In the application the FACT manager refers to the costs of hiring a mast, no such mast appears to exist on the FACT premises.
- App 2 states a quotation from “Direct UK Radios” was submitted. Internet searches have failed to identify a business of this name.

Observations made of parked vehicles have identified either no radio fitted or what appears to be cheap radio units fitted in a rather unprofessional way. Its suspected FACT/HACT has spent possibly 30-40% of these funds on equipment and the rest used to further cross-subsidised vehicles.

A FoI request was sent to CCC on 22nd January 2016 requesting quotations and invoices attached to these grants. On 9th February 2016 the Council responded in FoI response 6116 stating “*Cambridgeshire County Council does not hold any further information for the purpose of the Freedom of Information Act*”.

It is of further note that in FoI Request 3348 relating to radio purchases in App 3 Mrs Philpott declares FACT has 1000 members. In App 2 Mrs Philpott declares HACT have over 500 members. Two of HACT buses are being used full time operating bus contracts. Based on these membership figures, HACT appear to service 500 members with only 7 buses (4-6 of which operate school contracts) whilst FACT has over 40 vehicles to service 1000 members further supporting allegations that the FACT expansion objectives are of a commercial nature.

FoI requests asking for ALL information relating to these radio grants and loans totalling £35,213.79 and the £201,861.97 funding and loans found in applications from HACT highlighted in the previous section, gives a total approaching a quarter of a million pounds of public funds allocated to HACT & FACT during 2013.

It should be expected County and District Councils have procedures to follow regarding record keeping in respect of grant applications and the allocation of public funding and it is difficult to understand how in this case no records exist. In contrast, in response to a FoI request made to FDC in respect of FACT’s grant application to FDC in 2012 (see **Evidence of fraudulent Fundraising**

below) the Association was supplied with 484 pages of information relating to three grants totalling less than £30,000 (FoI 2619).

(Since the completion of this report and after three requests and taking almost 20 weeks the CCC finally released the findings of an internal review into FoI 5779. The Council claim that all information held for the allocation of almost a quarter of a million pounds of taxpayers' money in both grants and loans consists of three undated application forms, a generic set of terms and conditions and three pages of general information relating the Councils Community transport fund!. A complaint has now been registered with the Information Commission Office)

Evidence of fraudulent fundraising

Evidence obtained through numerous FoI requests has exposed the relentless use of fraudulent misrepresentations in applications to County, District, Town and Parish Councils. It is also suspected much generic funding material containing misrepresentations has been supplied to various private organisations and charities to obtain funding.

These applications misrepresent FACT's registered charity status, the necessity for services to be supported, membership numbers, ridership statistics, number of wheelchair members assisted, journeys originating from those suffering from rural isolation and support for the organisation within the community. It is alleged the purpose of these misrepresentations is to obtain funding to expand FACT's fleet of vehicles which are then used to service commercial contracts rather than their aims and objectives as a CTO.

One example of the alleged fraudulent obtaining of grants is detailed below. This relates to an application made by FACT to Fenland District Council (FDC) in 2012. The file relating to this application has been obtained in response to a Freedom of Information request (FoI 2619 App 4).

The application is signed by Joanne Philpott (described as Manager of FACT) and is dated 17th January 2012 (application commences page 37). She states 'FACT is a registered Charity that provides an essential transport service to the elderly, disabled and disadvantaged members of our rural community' and that the capital grant is because '*we desperately require for a sixteen seater disabled friendly vehicles for our community*' located in a '*very rural area*'. The application is for £35,419, and the need for the bus has been established through consultation with their members.

Mrs Philpott confirms the bus is for Dial A Ride, group members and children and those with disabilities. She states a number of charities have already pledged or collected £16,650 towards the total £35,419. Despite this declaration of further funding, the application is for the total cost of the bus!

Mrs Philpott has signed agreeing to abide by a set of Terms and Conditions including "*If the organisation is found to falsify any information it will result in all or part of the funds being withdrawn by the Fenland District Council*" (page 41).

Following receipt of the application an assessment process has been made by FDC including requests made to FACT for further information. In a grant assessment form dated 20th March 2012 (page 26 onwards) the assessor states the application has achieved a lower than normal score due to a lack of information and fails to demonstrate the '*impact on the wider community*' (question 10). The assessor also comments on the lack of information about how the application would support Fenland's children and young persons (page 27).

A further grant assessment form dated 27th March 2012 question 10 has been amended stating 'the project would help promote the 'Kids Konnected scheme' allowing young people to use the transport service.

Correspondence between FACT and FDC indicates further information was requested by the Council which Mrs Philpott submitted in support of the application (letter from FDC dated 29th March 2012, page 22).

The file includes other relevant documents including insurance certificate, child protection policy, an undated FACT business plan 2012-2015 (with a management structure schematic – page 46 onwards) and Trustee Declaration (page 57) signed by Trustees (including Gavin Moulton) and the FACT annual report and accounts 2011 (pages 75-95). In the annual report (page 49) Joanne Philpott is described as previously having the role of accountant, and is responsible for financial record maintenance.

The FACT business plan states that 80% of FACT's passengers fall within the categories of '*disabled people and the elderly*'. The report also refers to FACT trying to become more accessible to '*young people and disadvantaged people*'. It provides confirmation of fleet size and staff in 2011 and passenger and journey information. For 2011 it is stated FACT has 1453 members covered 275,497 miles carrying 70,426 Dial A Ride passengers and 5,673 Wheelchair users.

FACT claims a fundamental selling point is their ability to service residence suffering from rural isolation. Page 47 Mrs Philpott states "*This new vehicle would have an immense impact on our rural community*"... "*The area we operate in is predominantly rural characterised by small villages*"... "*The majority of the villages are very isolated*"... "*As a result people have to rely on friends and family to carry out simple tasks as a weekly grocery shop*"... "*It is clear for all to see the desperate need there is for FACT in this area*"

On page 53 she claims to use local bus services "*many elderly people and those with reduced mobility would have to travel long distances to these bus stops*". She suggests these individuals will be of little interest to commercial organisations and confirms her position by giving the example of the West route for which she claims "*The growth in this area has been phenomenal*".

Also submitted with the application are letters from various charitable institutions confirming grants, and from members expressing their satisfaction with FACT. An undated letter addressed to Joanne from the Evans Cornish Foundation donates £5,000 to 'Project: Sixteen Seat Savour'.

In a letter addressed to FDC dated 3rd April 2012 (page 11) Mrs Philpott gives details of the use the vehicle to be purchased using the grant. She refers to enclosing letters from '*various Dial A Ride members that have not been able to travel and have expressed their disappointment to us*'.

In this response Mrs Philpott states the bus is needed for the Central Fenland route and claims the bus will then be used in the evenings to support the 'Fenland Youth Bus' which launched the previous year to take young people on outings to the cinema and to theme parks. She states the vehicle would be '*maxed out as added support for these two popular routes*' and that the addition of this vehicle will have '*immense impact on our rural community*'. She states '*With the addition of another bus the DAR would continue to flourish*'.

Mrs Philpott states FACT receives an annual grant from Cambridgeshire County Council, and that there is a Service Level Agreement (SLA) between CCC and FDC. She states they provide CCC with quarterly service performance indicators including number of passenger journeys, miles travelled and group hire bookings and FACT are instructed to operate six days a week. She states they fulfil these obligations and report to Gavin Moulton (CCC Transport Officer and FACT trustee). She states '*The income generated through the bus and car services during 2011 was £236,847*'.

The application to FDC resulted in a grant of £17,100 being made to FACT (pages 1, 3 and 9). In the award letter dated 26th July 2012 Hetty Thornton of FDC states '*On the telephone this afternoon you*

discussed the possibility of purchasing two buses instead of the one highlighted in your original bid and requests confirmation of the specification and costs of those vehicles.

It is of note that the final agreed grant of £17,100 is half the sum requested in the original application (£35,419). Communication notes dated 22nd March 2012 record a conversation between an FDC representative and Jo Philpott requesting copies of quotes for vehicles and that there is a dispute over costs. The notes state that Mrs Philpott *'confirmed that she has made a mistake and is claiming for £18,769 rather than £35,000'*. The Grants fund application form (page 26) dated 20th March 2012 shows the initial request has been amended to £18,769.

The file includes an End of Project Report completed by Mrs Philpott (commences page 4) in which she confirms 1,038 people have benefited from the scheme and states *'Since the introduction of these two vehicles to our fleet, we have been able to add extra routes to our Dial A Ride schedule which has cut the waiting time for many of our members...The original funding was for one sixteen seater...but this was changed to two vehicles...(to) enable us to meet the immense demands we are currently receiving; two minibuses will better equip us to take on this growth'*. The number of people allegedly benefiting (1038) corresponds with declared Dial A Ride income for total members.

Examination of this application and associated documentation has identified the following misrepresentations have been made to Fenland District Council:

1. In the original application made to FDC Mrs Philpott states FACT is a 'Registered Charity'. As an Industrial and Provident Society FACT has the potential status of an 'exempt charity' however in 2009 FACT applied to the Charity Commission for registered status and was turned down for several reasons. A Charity Commission Intelligence Report has confirmed FACT has no entitlement to claim registered status therefore without clarification and explanation, FACT's statement is a misrepresentation of the organisation's status.
2. In the grant assessment form dated 20th March 2012 (page 26 onwards) the assessor states the application has achieved a lower than normal score due to a lack of information and fails to demonstrate the *'impact on the wider community'* (question 10). As a consequence, it is suspected Mrs Philpott has adapted and embellished the application in order to secure the grant.
3. As part of this process she has supplied misleading data, namely:
 - By claiming 70,426 Dial-A-Ride (DAR) journeys were made during 2011. Examination of data supplied under the FACT Service Level Agreement (SLA) and released in FoI request 2677 identifies an annual declared Dial A Ride ridership figure for 2011 of just 16,523
 - By claiming 5,673 wheelchair users for Dial A Ride during 2011 when previously declared figures were just 2,618 (FoI 2744).
 - By claiming FACT covered 275,497 miles servicing its DAR demand. FACT's 2011 Bus Service Operators Grant (BSOG) application declares a total of 235,775 miles for the same period. This figure is a signed declaration as to the total mileage of FACT's entire fleet for 2011 irrespective as to eligibility for a BSOG and therefore includes all activities including commercial undertakings (see **Bus Service Operators Grant (BSOG)** below)
 - By claiming FACT had 1,453 members; it is of note in other applications made to different councils the FACT manager has declared they have from 1000 to *"over 5000 members"*, some can be demonstrated to have been embellished to suit specific councils and the demand from their residence.

4. In order to support the application during FDC's grant submission process, Mrs Philpott has supplied letters of support from members expressing their satisfaction with FACT. One of these letters (page 64) purports to be from a FACT member dated 10th October who states they use the minibus every week, and asking if a further service could be provided to shorten their return journey time. The name and area of residence has been redacted. The letter has been examined by Home Office approved forensic scientist Stephen Cosslett and compared with specimen samples which can be attributed to Joanne Philpot. His opinion is that there is **strong evidence** Mrs Philpott is the author of this letter. The purpose of this letter (as part of a response to a request for further information) is to induce representatives of FDC to believe there was demand for additional transport services which would be fulfilled by the purchase of an additional vehicle which would provide that service (Forensic Report dated 17th October 2014).
5. It is claimed in the letter to FDC dated 3rd April 2012 (page 11) that the additional minibus is required to support the 'Fenland Youth Bus'. This service was launched as a pilot scheme to service the village of Manea. Examination of the Manea Parish Council minutes of meetings indicates in the nine months from the start of project to the date of this letter only one youth trip can be identified as having taken place.
6. Examination of FACT's 2011 accounts Profit and Loss account shows 'Hire of mini-buses and cars' totalling £236,847, the figure quoted as income generated "*through bus and car services*". In Mrs Philpott's letter to FDC dated 3rd April 2012 (page 11) she does not refer to an additional £86,921 declared income for Dial A Ride, Dial A Car or membership fees resulting in an accurate figure of £323,768.
7. The FACT business plan used to support the application describes FACT as a life-line to those subject to rural isolation; "*This new vehicle would have an immense impact on our rural community*". In response to FoI 2038, FDC justifies the issuing of this specific Rural Capital Grants funding, stating "*FACT was awarded £17,700 towards 2 buses to support the development of their rural transportation service to the more rural areas of Fenland*" (emphasis). FACT had historically declared the percentage of Dial A Ride services representing journeys originating from the most isolated villages to be 65%. Between being notified they were to be audited by the FDC and the audit itself the percentage for demand of this sympathy provoking issue was changed to represent just 12.5% of Dial A Ride journeys. (see **Cambridgeshire County Council Annual Grant** above, also file 'FoI 2677 rural isolation'). Many similar examples demonstrate these embellished figures being used including declaring a "*substantial year on year increase*" to the Manea Parish Council in an attempt to secure an annual grant of £4,000. The new figures expose a demand of just 0.5 Manea passengers used the current service (See File 'Manea Application').
8. Within the business plan Mrs Philpott states that '*Ultimately FACT has a vary unique selling point which few others have, we are the only fully assessable, affordable, professional door to door transport service available to all residents in the Fenland area*' (page 54). Dial A Ride services are in fact equal to or more expensive than buses, and in some cases comparable taxi fares, and in the case of 'P' and the Rotary club (see **Provision of Community Transport Services** below) are charged at an extortionate rate.
9. The business plan also refers to the '*phenomenal*' growth in the West route Dial A Ride services (page 53). Examination of data supplied through FoI requests 2620 illustrates the current demand for this entire route is just six daily passengers.
10. The application to FDC is supported by donations which have been made by other charitable institutions. It is suspected the application made by FACT to the Evans Cornish Foundation resulting in a donation of £5,000 made to 'Project: Sixteen Seat Savour' was on the basis it

would be used to support Community Transport services and not the supply of commercial contracts.

11. Further donations totalling £4,650 to support the purchase of these buses was reported to be made by private charitable foundations and supported by letters of confirmation. Examination of FACT's 2011 accounts identifies these grants reported as "unrestricted" funds leading to further suspicions that potential cross-subsidisation of grants has not been restricted to only public funding.

It is alleged the fraudulent and embellished information found in this and all other funding applications made available is another confirmation for the lack of genuine community demand to warrant the purchasing of additional vehicles. This leaves only commercial ambition as the only logical motivation for such a huge expansion of the FACT fleet.

Additional concern with this funding application

The above application was towards a total amount of £35,419. This exact same figure can be found in funding applications made to various Town Councils in 2008 and 2011.

In an application for £1,397 submitted to the March Town council dated 28th January 2011 FACT classifies itself as *"a registered Charity (sic) that provides essential transport services to the elderly, disabled and disadvantaged members of our rural community in the Fenland area of Cambridgeshire. Our services operate 7 days a week with 20 drivers catering for the needs of **nearly 5000 members** (sic). We are operating with a fleet of twenty vehicles which are becoming **old and tired**"* (emphasis).

The application confirms the funding is for a disabled friendly vehicle claiming *"we are desperate for this vehicle as we are located in a disadvantaged area"*. The application goes on to state *"Local post offices" have closed and claims "there is no local doctor surgery/dentist or opticians meaning our members are forced to commute to more rural areas"*. The application declares *"FACT has become a lifeline"* to these members.

The application claims *"FACT serves approx. 1000 Dial A Ride members across the March area alone"...**"we cover 300,000 miles per year feeding into March"*, and states the service is *"always at full capacity"* confirming *"a need we cannot currently meet without further support"*.

When this application is compared with the declared ridership figures for journeys, mileage and membership numbers it appears this information has been deliberately manipulated and embellished to appeal to the specific Council the application is addressed to, thus improving the chances of the application being successful. This misrepresentation of data is repeated in similar grant applications submitted to other Councils.

It is of further note this is not the only application claiming the bus is to replace *"old and tired"* vehicles. It is alleged the omitting of the asset note highlighting *"additions and disposal"* from the 2012 annual returns was a deliberate act to conceal how this funding was used to finance the 50% 'expansion' of its fleet size in 2012 rather than its replacement as claimed (see **Vehicle purchases** above).

The March Town Council grant application dated 2011 refers to the Rank Foundation donating £2,000 to this particular project. Included with FoI 2619 Page 68 (the FDC grant above) is a confirmation letter from the Rank Foundation for the £2000 grant. It is therefore suspected the same charitable grant demonstrates a link between these two applications.

In the 2011 application to March Town Council it is claimed FDC has pledged £3,000 towards the cost of purchase of a new bus to replace the *"old and tired"* bus. This is contrary to the FoI request 1968 dated 13th February 2013 which identifies FDC agreed another grant of £9,563 which was paid in two instalments of £4,781 (Confirmed through 'payments to suppliers')

Further examination of the March Town application shows further charitable donations towards the cost of the bus and reported as; The Sobel foundation (£15,000), The Robert Hall Trust (£5,000) and Tesco's (£500). These donations are confirmed in FACT's annual returns.

The link identified through the Rank Foundation application shows the total amount raised by FACT to replace a "tired and old" bus is far in excess of the likely cost of a vehicle, and funding exceeds the original application made to FDC for £35,419. The total *known* funds raised can be broken down as follows:

- FDC £17,100 (2012)
- £16,650 from various funders FoI 2619 page 39 (accounted unrestricted)
- £15,000 for the Sobel foundation
- FDC £9563 (2011)
- The Robert Hall Trust £5,000
- Tesco £500 (Accounted unrestricted)

This then gives a total of at least £63,813.

If this is not the same application, the FACT manger has raised £35,419 for a bus for the central route in 2010/11 (March being the main town of the Central route). FACT has raised a further £35,419 in 2012, again for the Central route. It is suspected far in excess of the number of vehicles required to service the needs of the CTO for the Central route area, and it is suspected the true motive behind their acquisition is to fulfil further commercial contracts.

Bus Service Operators Grant (BSOG)

The Department for Transport website states '*BSOG is a grant paid to operators of eligible bus services and Community Transport Organisations to help them recover some fuel costs. The amount each bus operator receives is based on their annual fuel consumption.*

BSOG aims to benefit passengers. It does this by:

- *helping operators keep fares down*
- *enabling operators to run services that might not otherwise be unprofitable (sic) and might otherwise be cancelled.'*

Grants are applied for on a six monthly basis and the CTO is required to supply information including:

- Type of fuel used
- Total eligible kilometres
- Total kilometres of all Section 19 vehicles (Including those ineligible for the BSOG)
- Total fuel used
- Total number of vehicles used to operate BSOG eligible services

Section five of the application is titled as "*Categories of service*" and states

"Indicate which categories of passenger you wish to apply for by ticking the correct box (es) below (you may be eligible for more than one category) Please also give a broad estimate of the percentage of the passengers that you carry which fall into each of the categories of person".

The CTO is then required to enter a percentage for each eligible category of passengers carried

FACT's application for the BSOG has been obtained through FoI requests from the DfT in 2013 and 2015. FACT's representative has ticked boxes on the application indicating the grant is to support the transportation of individuals falling into the following categories:

- (a) *Persons of 60 years or over;*
- (b) *Disabled persons;*
- (i) *Carers or persons under 16 years of age accompanying any of categories a) to h)*

A breakdown of the most recent application made available by the DfT Dated the 1st April 2015 identifies the following percentages has been declared for each of the above categories (average over 6 applications from 2012 to 2015):

- (a) 92% (Average 89.5%)
- (b) 76% (Average 73%)
- (i) 8% (Average 9%)

The percentage of total kilometres covered by the entire fleet eligible for the BSOG was declared as 89% (average 93.6%) Clarification was sought on the 10th December 2015 from Rachelle Edwards DfT as to the meaning of the percentages above, the following question was presented, *"Is the percentage representative of the number members FACT have over 60, or the number of passengers over 60 actually carried in the claimed mileage?"*

A response was received on 14th December and stated; *"The percentage is of the passengers they carry in each category provided in the form for the eligible kilometres"* (emphasis).

FoI request 6012 dated 21st December 2015 States *"There are a total of 155 pupils carried on the FACT educational contracts...There are a total of 123 clients carried on the FACT social care transport contracts"*.

In FoI 5916 APP1 (November 2015) CCC stated these 155 pupils are carried through the '16 education contracts' FACT currently hold with the Council. The educational school year represents 31 weeks, therefore 155 passengers x 5 days x 31 weeks = 24,025 passengers carried for the school year.

In response to FoI 6013 App1, FACT supplied invoices for social care contracts for July 2015. The social care contracts run for approximately 45 weeks of the year, although some contracts only operate for certain days of the week. Invoices demonstrate the majority of social care contracts FACT held in 2015 operated a full week. These contracts cater for all age groups. Therefore, these would represent approximately another 25,000 passengers carried operating through a further 9 contracts.

The 24,025 passengers carried in educational contracts should not be eligible to be included on a BSOG grant application, as they do not fall into any of the three relevant categories declared by FACT (referred to above (a), (b) and (i)). It is estimated approximately 60% of social care contract passengers are below 60 years of age. Therefore, a further 15,000 passengers also fall outside the BSOG criteria. Consequently, contrary to FACT claiming 89% of its overall mileage, it is estimated that 56% of FACT's total annual journeys are ineligible for a BSOG.

Similar concerns are highlighted regarding FACT's claim that 76% of its passenger journeys are being made by 'Disabled persons'. Guidance given by the DfT (App B of the application) for the meaning of a disabled person in relation to a BSOG states *"A person who has a physical or mental impairment which has substantial long term adverse effects on their ability to carry out normal day to day activities"*.

In FACT's business plan (FoI request 2619, page 55) Mrs Philpott declares *"Currently approx. 20% of FACT users have a disability which seriously impedes their mobility"*. This figure also confirmed through Dial A Ride statistics declared under their SLA with the Cambridgeshire County Council and

released in FoI request 2744. This is clearly inconsistent with the figure claimed in the BSOG application.

FACT's BSOG application dated 1st April 2011 is a claim for 21,183 litres of fuel. FACT's BSOG application dated the 1st April 2015 is a claim for 59,984 litres of fuel, a 283% increase in four years. This increase mirrors the expansion of FACT's commercial activities representative of the 56% of their operation which is ineligible for the BSOG.

It is alleged that this is another example of figures being embellished to fraudulently receive funding that FACT are not eligible to receive and then used to further fund its commercial expansion.

Audit

A FoI request (F0006498) was made to the DfT to obtain the results of a DfT audit conducted at FACT on 13th June 2014 in respect of their BSOG application for the period 1st October 2012 to 31st March 2013. The result of this audit appears to have resulted in a 'box ticking exercise'. It is of note the audit describes FACT as doing "*a mix of Dial A Ride (BSOG) and school contracts work for Fenland & Cambridgeshire county council (Special Needs)*". (Emphasis). No reference is made to the educational contracts which appeared to have represented 34% of FACT's activities at the time of the audit.

Attached to the DfT audit was a redacted copy of FACT's BSOG application dated 24th April 2014. Within the application FACT had declared 92% for category (a) eligibility, and 73% for category (b) eligibility (category (i) is omitted from the application form). Of most significance was that 99.27% of FACT's total mileage had been claimed in the BSOG application!

It is alleged by former Association Chairman and District Councillor Patrick a conversation took place between himself and a Mr Templeman of VOSA in which Mr Templeman declared he believed his officers were subject "*to having the wool pulled over their eyes by Mrs Philpott*". This conversation was referred to in an e-mail sent to Mr Templeman. VOSA refuse to release any further information for five years.

Commercial Contracts

Cambridgeshire County Council Passenger Transport Services are responsible for tendering commercial contracts to provide transport for a variety of purposes; children with special needs, children in care, old persons etc.

Each contract is offered with a contract number and the specific details of the transport to be provided, for example; the pick-up point for the client; delivery address; time date and frequency of the transport and any special instructions such as the maximum/minimum seating capacity of the vehicle, wheelchair access and whether the client is to be escorted.

Prior to 2011-20012 there was a 'paper based' tendering system where operators would be sent details of available contracts. The operator would cost and apply for routes they wished to tender for, and provide details of their insurance and licensing. The tenders would be opened at a specified time and date by a panel of Cambridgeshire County Council Councillors, and transport, accounts and social services representatives overseen by a person with no affiliation to the council. The tenders would be evaluated and the winning bidder would be awarded a contract lasting for 3 years and could be extended for another 1 to 3 years dependant on the operator's performance.

Factors such as the child's wellbeing, how the operator has performed, continuity and parental satisfaction should be considered as well as the cost of the tender.

Following a review by Cambridgeshire County Council in 2011-2012 operators were advised in writing their contracts had been terminated and a system of 'e-auctions' was introduced, where the lowest bid wins the contract. Contracts are offered on a web based system and operators bid against competitors. The bidding process finishes at a set time but competitors can submit a lower bid within a limited period of the auction closing.

This change in the tendering process has had a profound effect on the businesses of local bus and taxi companies. In one instance, due to this retendering process, Association members Parkers of Wisbech lost several income streams to FACT and consequently laid off drivers and escorts.

Special needs contracts are not awarded by e-auction; operators are required to complete an application about their business and if accepted onto an approved list, receive contract information by email and advised of the relevant deadline. Operators tender for special needs contracts by email and are advised if they are successful.

There is a further system of 'e-quotes' offered to operators on an ad hoc basis. These are mostly for short term special needs clients and the length of contract can vary from one school term to a year. These are sent to operators by e-mail. The operator emails a quote before a set deadline and if successful awarded the contract.

Through the Cambridgeshire County Councils website 'payments to suppliers' it can be demonstrated the value of payments awarded to FACT for the fulfilment of Council contracts has increased from £108,279 for the 2010/11 school year to in excess of £500,000 in 2014/15

Since FACT's recent expansion, the percentage commercial work represents of FACT's transport generated income has grown from approximately 33% in 2011 to 63% in 2013. It is believed that this figure will have been dramatically increased in 2014 but FACT is currently several months overdue in releasing their 2014 annual returns, and contrary to section 39 (5) of the IPS Act, and they have ignored several requests for them to be released.

The response to FOI 3362 dated 14 November 2013 shows CCC were asked questions concerning the number of CTOs currently undertaking commercial contracts and the number of contracts they are operating. The Council confirmed three CTOs were running public transport contracts (FACT, HACT and ESACT), and that these CTOs were operating eight public transport and seventeen educational contracts.

Examination of the Councils "payments to suppliers" for November 2013 identifies 38 individual payments for home to school contracts were made to these CTOs and a further 16 payments for additional contracts. It is suspected the number of contracts currently reported by the council to be held by FACT is not a true assessment.

FACT has recently been operating services on a commercial basis to transport students of the Wisbech Grammar School. Evidence has been obtained indicating parents of students pay transport costs direct to FACT. It is believed these parents do not hold membership of FACT and therefore services supplied to students are in breach of the terms of Permit 19 authorities. Further evidence indicates these services require 4/5 minibuses on a daily basis. It is suspected further private commercial contracts are held by FACT with a number of organisations.

Invoices

Association members can evidence their experiences of dealing with CCC and can make available invoices and bank statements to demonstrate they are paid approximately 30 days after invoices have

been submitted to the Council. Additional delays will be caused if the right information is not entered and in the correct format as required in CCC guidance.

FOI 6013 App1 dated the 5 January 2016 consists of all FACT invoices for payments in July 2015 totalling £111,933.40. Examination of individual invoices gives the dates of the invoices; 37 dated 30th June 2015, one dated 26th June 2015, 23 dated the 23rd July 2015 and one dated 13th July 2015, all but two stamped URGENT.

Examination of the Council's website "payments to suppliers" demonstrates 29 of these invoices have been paid by the 3rd July 2016. 4 were paid between the 7th/10th July 2015, 22 were paid between the 28th/30th July 2015. Unlike commercial competitors who will have to wait up to 30 days or more, 80% of FACT's invoices are paid within 3-4 working days providing a significant cash flow advantage denied to members of the Association.

Association members state that if they were to submit invoices of a similar standard to those of FACT, they would be sent back causing further delays in payment. The manner in which CCC give preferential treatment to the processing of FACT invoices gives them a significant competitive advantage over Association members.

(There are also concerns that VAT is not being charged by FACT on educational contracts. Many of these were previously serviced by members of the Association who were required to charge VAT).

Gifting of contracts instead of being put out to tender

Examination of an "open bundle of papers" sent to Mr D Humphrey by the ICO dated 30th October 2014" included a set of "Contract Regulations" set out by the Cambridgeshire and Northampton County Councils (Fourth Edition – revised 8 November 2012). (Services are now shared between Cambridgeshire and Northamptonshire County Councils.)

Exceptions to the rules/Regulations:

*3.1.3 Goods, works or services procured in a genuine Emergency (e.g natural disasters such as flooding or fires, immediate changes to legislation) because of need to respond to events that was beyond the genuine control of the council. Any Emergency procurement must be reported to head of the Central Procurement Team as soon as practical. Any such Contract entered into by the council must not be for a term of more than six months. **Please note that not allowing enough time to go to Tender is not an Emergency**" (Emphasis)*

4.1 ...Lack of forward planning will not constitute a reason for exemption.

The response to FOI 3509 dated 17 December 2013 States the Council awarded HACT five transport contracts since its formation on 28th March 2013:

Contract	Start Date	Daily Price	Live Mileage
ON45	10/09/2013	£55.76	14.1
925	01/04/2013	£79.73	19.4
PT03	01/04/2013	£82.31	19.4
PT04	01/04/2013	£75.00	14.9
PTP02	01/04/2013	£72.02	3.7

It is stated "*Contracts 925, PT03, PT04 % PTP02 were awarded to HACT under emergency powers (emphasis). Those contracts were previously operated by Nene and Ouse*"

On 6th October 2015 Martin Allen chairmen of the Bus & Coach Association requested CCC supply all transport contracts awarded to HACT since its formation, end dates, dates bids entered, number of contracts awarded on emergency basis and all relevant documentation for emergency status and date bids entered to retain any contracts (FoI request 5709.)

App 1 of this response shows the following information:

“Contracts awarded to HACT since March 2013”

Contract	Start date	End date	Bid date
46A	01-Apr-13	27-Jun-15	28-Feb-13
150	01-Apr-13	27-Jun-15	28-Feb-13
28	02-Jun-14	01-Jun-17	11-Feb-14
46A	29-Jun-15	30-Jun-18	27-Jan-15
65	27-Jul-15	28-Jul-18	27-Jan-15
150	29-Jun-15	30-Jun-18	27-Jan-15

The Council confirms contracts 46a & 150 where issued under ‘emergency powers’. It is of note that HACT was registered with the Charity Commission on the **28th March 2013**.

The Council omitted to include all contracts previously declared in FOI 3509 (above).

Examination of FOI 5709 App 2 identifies a response to an “exemption form” Sent by Linda Baxter of the Cambridgeshire County Council on the 28 March 2013 at 12.43 and addressed to Graham Rothwell of Northamptonshire County Council.

Linda Baxter states *“I submit the attached exemption form for urgent approval as the new contract is to start next week. This is an essential bus service and the council has had to obtain a short-term provider for continuity of service whilst we go out to tender”*.

Graham Rothwell responds *“Linda, You can confirm this is ok I will sign hard copy next time I am in Cambs, Graham.”*

Examination of the “Exemption Requests” (for Goods/Services/Works is from £30,000 to £100,000) identifies the name of the officer seeking Exemption as Mr Paul Nelson - Contract number 150 – Contract value of 305 days @ £180.06 = £54,918.30 – Supplier HACT – Exemption start date & end date 1st April 2013 to 3rd April 2014 – Name of LGSS procurement contact Linda Baxter.

Exemption Justification had been ticked “other” within handwritten notes found at the bottom of the document it states *“Nene & Ouse Community Transport are ceasing to trade. Further, the client wishes to award a new short term contract to Hunts association for community transport in order to continue with provision of the regarded (essential) service whilst we prepare for future competition”*.

The exemption request asks *“is an exemption being sought from the obligation to advertise?”* Answer “Yes”. *“Is an exemption being sought from the obligation to follow a competitive process?”* Answer “Yes”

*“If Yes please provide details: Following advice from legal services, cessation of operations by existing provider **does not provide sufficient time** to procure replacement contract to start in time. No change to contract cost.”*(Emphasis)

The exemption form is signed by Chief Officer Graham Hughes, dated 27/3/13 and authorised by G. N Rothwell 9/4/13.

Underneath the signatures the request concludes *'If approved, a signed copy of this form should be kept on file by the chief officer as evidence of compliance and the change updated in the contracts register'*.

The response to FoI 5709 states the Council does not hold an exemption request for contract 46a emergency status. In response to a review of this FoI request (FoI 5709 1/2/16) the CCC state *"no information is held for the purposes of the Freedom of Information Act"*. They do, however explain that contracts 150 and 46a were initially granted until 3rd April 2014 but this was extended to 27th June 2015. There is no explanation as to why the period had been extended.

Between the two FoI requests it appears HACT have serviced over 9 contracts identified through information found under "payments to suppliers". These identified at least 6 contracts were awarded to HACT on 'emergency basis'.

In FOI 5851 dated 17th November 2015 the Council was asked *"Could I please have all exemption applications and terms and conditions made from the Cambridgeshire county council for permission to issue transport contracts on an "emergency" basis between 1st February 2013 and 1st may 2013"* .

In complete contrast to previous FOI requests, Council "Contract regulations" and contract durations the Council claims *"there is only one exemption that is recorded"* and now concludes *"Where transport is needed at short notice and for a short term, it is treated as a short term contract. As such, there is no requirement for an exemption application"*.

Under internal review of FOI 5709 10/2/16 the Council once again confirmed 6 contracts had been issued on an emergency basis but failed to supply the information explaining the circumstances of these exemptions as requested. App 2 indicates the Council must retain permission orders but they have also failed to supply these when requested.

(A complaint has now been entered with the ICO on the grounds that the CCC is withholding information it has a legal duty to declare, exemption permissions, or have repeatedly given false information regarding the true nature by which these contracts have been issued, which if deliberate, itself constituting a criminal offence)

As identified within the councils "Contract regulations" *"not allowing enough time to go to tender is not an emergency"*. Examination of numerous tender requests from Ed.Contracts@cambridgeshire.gov.uk demonstrates transport contracts of all types, including *"short notice"* and *"short term"* contracts, are sent to commercial companies listed with the Cambridgeshire County Council on a daily basis throughout the year. The start date for each contract can be from immediate to approximately one month.

HACT was registered with the Charity Commission on the 28th March 2013. Information obtained through FoI request 5709 indicates bids were placed by HACT on 28th February 2013, one month before their registration and evidencing that the offering of these contracts was far from being on an 'emergency' basis. Due to the timescales involved, this was not an 'emergency' furthermore a lack of time does not justify contracts to be issued under "emergency" status. Consequently the contracts should have been put out to commercial tender. It appears therefore these contracts have been 'gifted' to HACT by the Council.

A FoI response from the Traffic Commissioner dated the 30th April 2014 indicates the application for Permit 22 authorities was received from HACT on 11th March 2013. This is further confirmation that adequate time was available to arrange a tendering process for these contracts; at the time HACT were awarded the 'emergency' contracts they did not have the correct authorities to provide these services and had make application to the Traffic Commissioners.

Examination of the Councils "Contract regulations" identifies such emergency powers should "*be for a term of no more than six months*" in contrast to this the exemption note for contract 150 has been issued for one year and in further contrast to both these time scales FOI 5709 identifies both contracts 150 and 46a were extended and subsequently not put out for re-tender for two years.

The response to FOI 3509 shows contract PTP02 has a live mileage of just 3.7 miles. AA route planner demonstrates a back to base mileage for HACT of 106 miles, with a daily charge from HACT of £72.02.

It is suspected that in contrast to regulations that demand these contracts be put out for competitive tender for local companies to operate, Council officers have 'gifted' transport contracts to HACT for the sole benefit of HACT at much expense to the public purse and to the exclusion of Association members.

Members of the Association would have been able to respond to bids had they been given the opportunity to do so. 'Gifting' these contracts to HACT has given them an unfair competitive advantage over members of the Association. This is in addition to the advantage already obtained through funding awarded by the Council allowing HACT to purchase buses to operate these commercial undertakings.

Evidence of Inside information

A document released in 2013 shows a list of home to school contracts giving details of contract number, Location, Company name, Daily price, Number of seats, special requirements

18 of these contracts were awarded to FACT. 10 of these contracts ranging from £30 to £70 per day were rounded off to the nearest £5. The remaining 8 contracts were won by FACT entering very specific daily prices ranging from £31.58 to £71.75. The question that causes concern is how FACT knew when to put in such specific bids?

In line with Permit 19 regulations to operate "*without a view to profit*" CTOs can only legally cover operational costs therefore the CTA recommends that each job is priced using a "*full cost recovery*" system. Examination of FOI Request 5916 app1 dated 7 December 2015 and using AA route planner indicates some further extremely inconsistent pricing. The clear lack of consistency not only suggests no "*Full cost recovery*" system is being adopted but raises further concerns regarding the costing of jobs is being potentially influenced by knowledge of bidding activity for each contract FACT are awarded.

The most blatant example is route HI09 with a live daily mileage of just 31 miles being awarded to FACT for a daily price of £302.54p. The owner of Rayal Coaches Jan Robinson questioned the Council as to this extortionate price and was told FACT won the bid at such a large price as no other companies bid on this particular contract. It is therefore suspected that if FACT generally out bids companies by 25% but under certain circumstances enters highly inflated bids, they must be supplied with information by someone with inside knowledge of bids submitted by other businesses. If this is the case FACT has an unfair commercial advantage over members of the Association.

Further evidence of Illegal Profit Making

The Traffic Act 1985 Section 19 (2) (b) *Is not being used - with a view to profit nor incidentally to an activity which is itself carried on with a view to profit*

European Commission Brussels, 04.06.2015C(2015) 3657 final: (64) *CTOs operate as not-for-profit organisations. Their revenues (including grants and contract income) can be legally used only to cover their costs. If CTOs breached the "not-for-profit" requirement, the driving permits under which they operate would be invalidated and they would no longer be entitled to provide the PSO for which they have been contracted*

The Community Transport Association (CTA) confirm that to make a profit through local authority commercial contracts with the intention of using it to support their charitable services would be in breach of permit 19 regulations *"an activity which in itself carried out with a view to profit"*. The CTA state the CTO would *"need to set up a trading arm, either as a limited company where it would own all the shares or all the votes in a company limited by guarantee, or a community interest company. When this is in place you will need to obtain your PSV operator's licence (O-licence)."*

The CCC permit 19 application form *"The permit does NOT allow operation for "Hire and Reward". Charges on a not for profit basis."*

CCC Commercial Contracts

The terms set down by the Council states *"The permit"* does NOT allow profit. Each bus has a separate permit so *"The Permit"* would also logically have to mean - The Bus - the permit is attached to cannot individually charge on anything other than a *"not for profit basis"*. This further confirmed above in the Road Traffic Act 1985 *"to an **activity which is itself** carried on with a view to profit"*(emphasis)

Many of these CTO's individual contracts can be demonstrated to be running *"with a view to profit"* The most blatant examples are again route HI09 with a live daily mileage of just 31 miles being awarded to FACT for a disproportionate daily price of £302.54p. And contract PTP02 which has a live mileage of just 3.7 miles with a daily charge from HACT of £72.02.

Examination of FOI 5850 App4 (5) and in relation to the bus contracts 150 and 46a identifies Mrs Philpott declaration how *"This proposal will financially support our Ring & Ride services"* Confirming her intentions to make a profit with the objective of supporting the CTO's community service.

The following gives evidence of profiteering from commercial contracts of a more universal nature. FACT manager (Trained Accountant) in a tweet she wrote on 5th April 2013 *"Ely soham dial a ride lucrative contracts. Profit 60k!!!"* This was at a time when the Ely and Soham Dial A Ride service were potential competitors and prior to their take over by FACT in 2015.

Examination of FOI 2619 page 48 identifies the FACT manager stating *"We hope to continue with our school contracts and hopefully take up more of these. These school contracts are not **very profitable** for FACT but keep up our profile across the county (emphasis)"*. Not much profit is still a profit and against permit 19 regulations, additionally could it not be asked *"not very profitable"* in comparison to what?

Community Work

FACT state their aim is *'to provide accessible, affordable and safe transport services'* to those in need. The experiences of 'P' described below illustrate this to be a false claim.

'P' is a severely disabled wheelchair user who is a member of FACT. It has been established he pays FACT £28.00 cash for a 1.1 mile return journey to a local community centre. An addition example has been reported by the local Rotary Club who have been charged £60 for a 2 mile return journey for two passengers (See **Provision of Community Transport services** below)

Assets as proof of illegal profiteering

Arguably the most powerful piece of evidence for illegal profiteering is to ask how has FACT, a “*not for profit*” organisation, managed to double its fleet size at a cost of hundreds of thousands of pounds in just four years to service its commercial expansion.

In relation to the European Commission stating: “*Their revenues (including grants and contract income) can be **legally** used only to cover their costs*”! (Emphasis) How can doubling the size of its fleet to service a 500% increase in commercial contracts be justified as “*covering the costs*” of a not for profit community transport service?

Council’s wilful negligence

Fenland District Council

Many attempts have been made to raise concerns with the Fenland District Council regarding their relationship with FACT.

One particular example of FDC’s response to these complaints is detailed below, illustrating the dismissive way in which these legitimate concerns have been dealt with by the Council. This specific example relates to an audit into FACT undertaken by the Council’s Licensing Team Leader Kim Winterton.

On 28th February 2013 a meeting was called by MP Steve Barclay and was attended by representatives of FACT and others (see **Grants and Finance** above). At that meeting the MP requested that Kim Winterton undertake an audit into the operations of FACT within 30 days.

This instruction was followed up in a letter from MP Steve Barclay to Kim Winterton of FDC dated 19 March 2013. The letter states “*At our meeting on 25th February attended by Cllr Tuck (FACT Board Member) local taxi firms, FACT, and representatives of Fenland District and Cambridgeshire County Councils, you agreed to carry out two specific actions. These were:*

- *To carry out an immediate audit of FACT memberships to ensure FACT is compliant with its membership criteria and application process.*
- *To check that grant funding for the Dial A Ride scheme is ring fenced and is not being used to cross subsidise other parts of the FACT operation.”*

In this letter Mr Barclay refers to the additional agreements that FACT would “*cease to advertise*” for the Taxi industries work and luxury travel, and that “*any concerns with audited accounts*” should be reported to the proper authorities.

On 9th February 2014 an email of complaint was sent to Paul Medd CEO of the Fenland District Council by the former Taxi Association chairman and Councillor David Patrick. The complaint was in response to the results of this audit which had been reported on the 29th May 2013 in the local press. The complaint detailed a number of areas of concern:

1. The Council appointing an officer to assist with an audit into FACT whilst the same officer was also listed in the FACT 2012 accounts as a Committee Member to the organisation she is to investigate. This person is Wendy Otter.
2. Contrary to the MP’s letter the audit claims the FDC was *only* requested to investigate whether FACT required further licensing to operate as Private Hire or Hackney Carriage.
3. To identify whether FACT had been illegally undertaking taxi centric work the auditor allegedly selected “random” records of individual journeys held by FACT. The individual records selected and detailed within the audit represented a very specific group of users that would account for just 4 % of FACT’s community based services and who would unquestionably fall within FACT’s registered remit (for example three out of five bookings sampled involved Dial A Car wheelchair users). The concern therefore raised is that the records selected did not accurately represent a true cross section of passengers, and were

deliberately selected to conceal examples of taxi centric work. Examination of the Audit identifies confirmation records were open to abuse (Page 8) *“Whilst we are confident that records of initial contact have not been tampered with in anyway, for the purpose of a secure audit trail we would recommend the use a bound book system in place of the loose leaf folder set up that is currently in place”*

4. The auditor’s refusal to investigate abnormalities in accounts as requested by the MP despite auditor receiving e-mails demonstrating a number of accounting issues. Of significance is detailed information given to Auditor demonstrating income missing from FACT’s Dial A Ride declared revenue. Despite no investigations included within this audit FACT then discreetly changed income figures without any explanation, this simply pushes missing income issues to previous years.(See **Cambridgeshire County Council** Below)
5. The auditor’s refusal to investigate whether Cambridgeshire County Council annual grant funding was ring-fenced as requested by the MP, despite the auditor being advised this funding was being accounted as “unrestricted” funds. (See **Cambridgeshire County Council Annual Grant** above)
6. The auditor claimed to have made internet searches for unethical advertising for the Taxi industries work and concluded *“no evidence found of advertising under taxi category”*. Numerous screen shots have been obtained showing this type of advertising between January 2013 and January 2014.
7. The auditor states *“It is evident that members of FACT have undertaken various assessments of eligibility that are taken into consideration as part of their enrolment to FACT”* contradictory to how FACT’s refused to check its member’s eligibility in the MP’s meeting.
8. FACT’s contravention of the service Level Agreement (SLA) by using minibuses like minicabs by carrying one or two passengers on short unscheduled journeys instead of adhering to timetabled routes. As this is a condition of FACT’s SLA by operating in this way they are abusing the bus pass concession system.

The complaint concluded with the following statement:

“Therefore, if our concerns cannot be adequately resolved we believe we will be entitled to a public retraction of FACT Ltd implied innocence based on this disingenuous document, due to the fact that without address to our concerns it will not only strengthen our claims of FACT’s behaviour but potentially demonstrate their and your officer’s guilt as there is only one reason for dishonesty TO HIDE TRUTH!!”

Councillor Patrick received a reply to the complaint by e-mail on 24th February 2014. The responder was Mr Dan Horn (FDC Senior Officer). In this response, Mr Horn states *“thank you for your e-mail to Paul relating to FACT.”* In response to the issues raised in the complaint:

Issue (1) - Mr Horn claims FDC Officer Wendy Otter was not there to *“conduct the audit in anyway”*. Mr Horn neglects to explain why this officer attended the audit. Examination of FDC Audit App 1 identifies *“Additional Persons involved in Audit”*... *“Wendy Otter, Department Manager (Transport)”* (emphasis)

Issue (2) - Mr Horn states *“At the meeting with Stephen Barclay MP in February 2013, Fenland District Council agreed to conduct an audit under its powers as the Licensing Authority”*. Restricting the motive of the audit to the councils *“powers as the Licensing Authority”* is found to be in complete contradiction to the MP’s Letter dated 19th March. It is of note Dan Horn did not attend this meeting.

Issue (6) Examination of FOI 2293 confirms internet searches were made by the auditor on the 8th May 2013 and 10th May 2013 to identify FACT advertising under the category of ‘Taxi’. In the FDC audit, the auditor concludes *“No evidence found of advertising under taxi category”*.

Mr Horn confirms receipt of evidence with *“the screenshots you helpfully provided”* Examination of screenshots identifies some dated and some undated images of FACT advertising on Google throughout 2013. As the complaint was targeted at a CTO not only operating but actually based in the

town of *March* and the concise nature of the complaint, the CTO advertising under the category of *Taxi*, these were understandably keywords used to generate these screenshots.

Further examination of Mr Horn's e-mail identifies the explanation given for the Auditor's failure to detect the questioned advertising as "*this does not make our FOI response incorrect, it just means that different search terms were used, which came up with different results*".

In FoI 2293 item 25 the Council confirms "*Did not find any advertisements for FACT as a taxi service*". Therefore, for Mr Horn's reasoning to be correct his officers, on two separate occasions, failed to make any searches containing both the keywords "March" & "Taxi"

It is of note that Mr Horn omitted items (3) (4) (5) (7) & (8) from his response, and no further explanation has ever been received from any representative of Fenland District Council.

Cambridgeshire County Council

The representative attending the MP's meeting on behalf of the Cambridgeshire County Council was Joseph Whelan Head of Transport. Mr Whelan has been approached regarding several concerns including

- Revenue missing from annual accounts
- FACT's refusal to ensure all its members meet required eligibility criteria as set out in their Service level Agreement (SLA).
- Using expanded fleet like minicabs contrary to the conditions of the SLA
- Advertising for Taxi centric work on Google
- Conflict of interest issues regarding his officer's relationship with FACT.

It is alleged Mr Whelan has simply ignored or attempted to dismiss every issue presented to him, below is a single example.

On 9th August 2013 David Humphrey sent an email to Mr Whelan raising a number of issues regarding FACT. Specifically concerns that FACT was abusing the bus pass concession system were raised of which the funding is shared between District and County Councils.

The bus pass concessions facility is only for Dial A Ride services and one condition of FACT's SLA with both Councils follows:

"3.4 It is anticipated that (FACT) will attempt to minimise costs, meaning that the dial-a-ride services cannot be as flexible as a taxi or a social car scheme. This will mean determining destinations in advance, and expecting passengers to fit in with those plans" (emphasis).

The email makes reference to pictures sent to Mr Whelan demonstrating three buses arriving at Tesco's store in March at the same time. Additional pictures demonstrate 4 buses arriving in under an hour alleged to be carrying between one and three passengers. (Its claimed this use of minibuses can be seen operating daily around March) The e-mail states:

"That's 4 buses in under an hour, the central route buses are scheduled to arrive three times a day, at 10.25, 11.50 and 13.55. So the 11.50 accounts for one of these buses, so the other three?"

From FACT Ltd website "Unlike our Dial-A-Ride service you are unable to use your bus pass on the Dial-A-Car service". They are potentially using these buses in place of cars to get around this ruling and by doing so allow what should be Dial A Car journeys to be paid for with bus passes. Which is a total abuse of the Bus pass concession system that's in place."

Mr Whelan responded to Mr Humphrey's email on 3rd October 2013 stating:

"I am sure that the observations you report are correct. However, I cannot agree with your conclusions that what you observed is a misuse of public money or an abuse of the Concessionary Travel Scheme. It is possible that the passengers on board paid Dial A Car Fares"

Mr Humphrey replied to this email on 4th October 2013, quoting income figures taken from FACT's 2012 annual returns for both services:

Dial A Ride £98,601 & Dial A Car £12,959.

The proposition is then presented to Mr Whelan; *"Three times more buses turning up at Tesco's than scheduled Dial A Ride routes" "if all these customers are paying Dial A Car "cash fares" shouldn't those income streams be the other way around Mr Whelan!!!!!!!!!"* No further response has ever been received from any representative of Cambridgeshire County Council relating to this issue.

FACT's annual returns year ending 2012 (page 5) recorded the declared income for Dial A Car (cash fares) as £12,959. In the 2013 annual return year ending 2013 (page 5) Dial A Car income had risen by over 300% to £43,111. It is alleged FACT, approached by Mr Whelan, have simply embellished the Dial A Car income to conceal this potential abuse of the bus pass system.

(Of possible note is on examination of the council's website under "Payments to suppliers". During the six months prior to Mr Whelan being notified of this potential abuse the average monthly concession payments was 1458, the following six months the average monthly figure fell by 11.8% to 1,285.)

Possible confirmation has been obtained from Cambridgeshire County Council (FoI 3293 dated October 2013). This response identifies bus pass concession payments made to FACT from between 1st January 2012 to 31st December 2012, totally £36,363.25. FoI 2222 (undated) from the Fenland District Council shows bus pass concession payments made to FACT for the tax year 2012 of £62,724. This then creates a total of £99,087.

Inspection of FACT's 2012 annual returns identifies income declared under *'Dial A Ride fares and memberships fees'* totals £98,601. During 2013 concerns were raised with both Kim Winterton and Joseph Whelan as to how the amount paid in bus pass concessions mirrored the Dial A Ride income raising the questions, where had all the membership fee's gone, and where had all the cash fares gone? (Confirmed in E-Mails). No response has ever been received from any representative of County or District Councils relating to this issue.

However on the release of FACT's 2013 annual returns the 2012 Dial A Ride income reported under previous year figures had mysteriously been changed from £98,601 reported in the 2012 accounts to an increased figure of £119,247. No explanation has ever been received from either Council representatives or from FACT.

In the absence of the above information regarding potential concession abuse it was initially believed by members of the Association that this was evidence of FACT attempting to hide profit. It is claimed by generating an average fare using invoices supports the original figure of £98,601. It is therefore alleged the £20,646 added to this figure is another example of figures being embellished, in this case to potentially hide manipulations of bus pass concession income. It is also believed this amount potentially represents the financial value of the alleged abuse.

(A statement may possibly be available from a known Taxi/FACT user who has confirmed FACT is allowing members using Dial A Car services to pay via the bus pass concession system).

Additional Concerns with Concession system

In 2011 central government transferred the responsibility of bus pass concession payments from District to County Councils. DfT policy states no service of which more than 50% of seats are bookable in advance should qualify for the concessionary system. As all Dial A Ride seats have to be

booked in advance this technically makes them unsuitable for the concessionary scheme. This was confirmed by Rachelle Edwards DfT in FoI request dated the 14th December 2015 when she states “*transport cannot claim concessionary travel on section 19 permits*”. Although the association has yet to have it confirmed it is believed the government allows individual councils a discretionary decision to fund such schemes.

FoI 2579 dated February 2013 responds to a request for the minutes of the council meeting where such discretionary decision was made, the CCC response “*Unfortunately, CCC do not have minutes documenting how the concessionary agreement was arranged*” in conflict to DfT policy the council officer answering the request claims it to be a continuation of the arrangement FACT previously held with the FDC, the response concludes with “*the arrangements for CCC taking over were conducted on the phone*”.

It is alleged that officers at both County and District Councils have potentially denied elected members of the County Council the opportunity to make a discretionary decision on behalf of the public who elected them. It is suspected deals conducted over the phone by officers have resulted in the release of well over £100,000 in payments to FACT of public funds.

FoI request 2579 includes a letter addressed to Jo Philpott informing her CCC has agreed to fund 50% of the concession system. This letter was signed by Wendy Otter, it is therefore suspected Wendy Otter was potentially the FDC officer who had arranged the agreement with the CCC, possibly by phone with Gavin Moulton.

Additional concerns regarding these payments:

- Following the changeover of concession payment responsibility in 2011 FACT’s Dial A Car income dropped by 35% potentially indicating the beginning of alleged abuse reported to Joseph Whelan
- Payments for the concession scheme are split between the FDC and the CCC and the invoices sent to Council Officers/FACT board members to get signed off.
- The numbers of bus pass passengers using FACT’s services are recorded by hand when the member rings to make a booking. This is a system which is clearly open to abuse.
- The original estimate for the annual cost of the scheme presented to the FDC in 2009 was £10,000. The cost in 2012 was almost £100,000. (Since 2013 FDC has capped funding for the scheme to £50,000.)

It is alleged the refusal of Council officers to investigate these concerns is assisting in FACT to be able to offer an anti-competitive advantage over the Taxi industry by allowing FACT to illegally offer free journeys for Dial A Car services in direct competition for non-timetable Taxi centric work.

Full Council and FACT board

A document detailing the Association’s concerns was presented to all County and District Councillors in October 2014. A further document highlighting concerns in relation to the 2012 grant application and allegations of forgery was presented to all FDC Councillors in November 2014 (see **Evidence of fraudulent fundraising** above). A third document dated 29th October 2014 was presented to FACT board members.

No official response has ever been received by the Association from any of the parties presented with these documents.

Provision of Community Transport services

FACT state their aim is '*to provide accessible, affordable and safe transport services*' to those in need. The experiences of 'P' described below illustrate this to be a false claim.

'P' is a severely disabled wheelchair user who is a member of FACT and uses their services for his transport needs. It has been established he pays FACT £28.00 cash for a 1.1 mile return journey to a local community centre. Whilst the journey requires the use of a vehicle adapted to carry P's wheelchair, this is a service which local taxi businesses can offer at an approximate cost of £8.00 for the same journey.

This case, confirmed in a recorded witness statement, indicates that rather than support the local community, FACT's business model exploits its members at the expense of pursuing commercial contracts.

(It is alleged by former Councillor David Patrick new information has been uncovered regarding how the local rotary club is being charged £60 return journey to transport disabled passengers for a distance of Approximately 2 miles)

Using information provided by FACT and through Freedom of Information Act requests, ridership figures can be calculated as 1.4 daily community passengers per vehicle maintained by FACT. Evidence obtained by Association members indicates wheelchair users and other members of the public are being declined services funded by public money on the basis that vehicles are not available due to commercial contract commitments. It is further alleged other customers have experienced excursions being cut short for buses to get back for the fulfilment of commercial contracts.

On 29th May 2013 the Fenland Citizen newspaper published an article stating FDC were capping the bus pass concession system funding to £50,000, a drop of £12,000 from the previous year. In response to this cap the FACT manager cut the Dial A Ride Saturday service, one of the two busiest days of the week, without any warning to users.

In this article a seventy-year-old FACT user stated "*The Saturday service is always full, but I often travel in the week when I'm the only passenger. Surely it would make more sense to cut one of those rather than cut the popular Saturday service. To be honest I was in tears when I heard the news*". The FACT manager reported "*There is a lot of hidden costs and issues with running the Saturday service*"

It is alleged by members of the Association no such "*hidden costs*" exist and the lost income from running such a busy service would potentially amount to more than the cuts to which the FACT manager states "*she had been forced to make difficult decisions as a result*".

Due to the 100% increase in fleet size costing hundreds of thousands of pounds to fulfil its commercial ambitions its alleged that this act was not done out of necessity but to place pressure on the FDC to remove the funding cap. Despite the relentless use of FACT's self-promotion as a 'lifeline' to needy residents, it then stripped these services from them without notice to apply political pressure to the FDC to reinstate the funding, indicating a ruthlessness to use its venerable members rather than serve them.

Conclusion

Ultimately it is alleged over the past four years FACT has been transformed from a genuine community transport organisations operating to assist those in need to a dishonest, ruthless commercial animal motivated by greed and ambition to the detriment of its original users.

It is further alleged FACT are not only being allowed to operate in breach of rules, regulations and laws with impunity but also guilty of criminal acts which are being hidden behind the organisations original charitable image.

In a tendering model predominantly operating on a “lowest bid wins” system the cumulative effect of the above has afforded these CTOs a huge financial and regulatory advantage. This advantage has allowed FACT, HACT and ESACT the ability to manipulate the Councils procurement of competitive commercial contracts and the undertaking of traditional taxi centric work.

FACT has been allowed a further advantage as a consequence of officers and Councillors from both District and County Councils showing wilful neglect in relation to complaint handling and adopting a casual indifference to evidence reported of offences. It is further alleged such selective negligence towards “*conflict of interest*” issues regarding transport officers inextricably linked to FACT and its sister organisations are responsible for contracts being gifted or inside information forwarded guaranteeing successful bids.