

**CHARITY COMMISSION FOR ENGLAND AND WALES**  
**THE THEOSOPHICAL SOCIETY IN ENGLAND**  
**APPLICATION FOR REGISTRATION OF THE THEOSOPHICAL SOCIETY IN ENGLAND**  
**DECISION OF THE COMMISSION 20 JUNE 2016**

**Background**

1. The Theosophical Society in England ("the Society") applied to be entered onto the register of charities on 29 July 2015.
2. The Theosophical Society was founded by Helena Petrovna Blavatsky, Henry Steel Olcott, William Quan Judge, and others in New York City in 1875. In 1882 the international headquarters of the Society was established in India and this remains the headquarters today. It is established in 50 countries throughout the world.
3. The Theosophical Society in England is a national body with local branches which operate within an international framework and is part of a world-wide movement. It provides a website and a range of regular courses, talks, workshops and events and makes available publications on the subject of Theosophy and related subjects.

**Decision**

4. The Commission was satisfied that the Society meets the requirements of a charity in law, being established for promoting moral or ethical improvement and the advancement of education for the benefit of the public. The detailed reasoning is set out below.

**The issue for consideration**

5. The issue to be determined:
  - a. Is the Society a charity, being established for exclusively charitable purposes for public benefit as defined by section 1 of the Charities Act 2011 ("the 2011 Act")? That is to say:
    - i. Do the purposes of the Society fall within the description of purposes in section 3 of the 2011 Act?
    - ii. Are the purposes for the public benefit?

**What are the purposes of the Society?**

6. The Society is a company limited by guarantee incorporated on 28 July 2015. The company is the corporate successor to an unincorporated organisation. The company's objects in Article 2 of its Articles of Association are "*...for the public benefit to promote moral and spiritual welfare, and the advancement of education, through the promotion and study of Theosophy. "Theosophy" is defined in an Appendix to these Articles.*"
7. The text of the Appendix referred to in the objects is as follows:

*"The Theosophical Society, while reserving for each member full freedom to interpret those teachings known as Theosophy, is dedicated to preserving and realising the*

*ageless wisdom, which embodies both a world view and a vision of human self-transformation. The Theosophical tradition is founded upon certain fundamental propositions:*

- i. The universe and all that exists within it are one interrelated and interdependent whole.*
  - ii. Every existent being – from atom to galaxy – is rooted in the same universal, life creating Reality. This Reality is all-pervasive, but it can never be summed up in its parts, since it transcends all its expressions. It reveals itself in the purposeful, ordered and meaningful processes of nature as well as in the deepest recesses of the mind and spirit.*
  - iii. Recognition of the unique value of every living being expresses itself in reverence for life, compassion for all, sympathy with the need of individuals to find truth for themselves, and respect for every religious tradition. The ways in which these ideals become realities in individual life are both the privileged choice and the responsible act of every human being.*
  - iv. Central to the concerns of Theosophy is the desire to promote understanding and fellowship among people of all races, nationalities, philosophies and religions. Therefore, all people, whatever their race, religious affiliation or gender, are invited to participate equally in the life and work of the Society. The Theosophical Society imposes no dogmas, but points toward the source of unity beyond all differences. Devotion to truth, love for all living beings, and a commitment to a life of active altruism are the marks of a true Theosophist.*
8. The Articles of Association contain a Preamble which is set out in **Annex 1**. The Society included this for the benefit of the members who wish to retain reference to the historical roots of the Society within its governing document. The members consider this has no effect in law.
9. The Commission is not required to determine the legal effect of the Preamble but it is legitimate to take this into account in construing the governing document as a whole. It assists in providing an explanation of the background and establishment of the Society and its purposes.
10. The Preamble confirms that the objects of the unincorporated organisation which preceded the incorporation of the Society are the same as the objects of the International Society and most national Theosophical societies:
- i. To form a nucleus of the Universal Brotherhood of Humanity without distinction of race, creed, sex, caste or colour.*
  - ii. To encourage the study of comparative Religion, Philosophy and Science.*
  - iii. To investigate unexplained laws of Nature and the powers latent in man.*
11. The Society confirmed that the objects of the company are a modern statement of the objects of the unincorporated organisation dating back to 1896 and reflect the contemporary approach of the Society.

## **Legal authorities relating to Theosophy**

12. The Court has previously considered the objects at paragraph 10 above and decided that they are not charitable, so it was necessary for the Commission to consider the decisions of the court in ***Berry v St Marylebone Corporation* [1957] 3 All ER 677** and ***Re Macaulay* (1931) [1943] 1 Ch 435** and to what extent it was bound by these.

13. **Berry v St Marylebone Corporation** is a ratings case where the question was whether property was occupied for the purposes of an organisation whose main objects “are ... *concerned with the advancement of religion, education or social welfare*” (s. 8(1)(a) Rating and Valuation (Miscellaneous Provisions) Act 1955).
14. The Court of Appeal in **Berry v St Marylebone** held that the purpose was not for the advancement of religion, education or social welfare, but it was at best a philosophical or metaphysical conception:
 

*“The teaching of the Fatherhood of God and the recognition of the corresponding brotherhood of humanity without distinction of creed appears to us to be, at best, the teaching of a doctrine which is of a philosophical or metaphysical conception rather than the advancement of religion. If the society is concerned in the advancement of religion, it may well be asked, “What religion does the society advance and how does it advance it?” We can find no satisfactory answer to this question in the language of object (i) or in any of the relevant evidence. In our opinion, it cannot be said that this object is in any way concerned with the advancement of religion.”*

*“Nor can we find that the object is in any way concerned with the advancement of education”.*
15. The Court took into account evidence of what Theosophy is and what Theosophists believe as follows:
 

*“Theosophy is the study of the truths which form the basis of all religions and which cannot be claimed as the exclusive possession of any one religion. Theosophists believe that the divine life of God is the source of, is present in, and progressively manifests itself in, all the kingdoms of nature and the supernatural kingdoms. Theosophy as a religion teaches the Fatherhood of God and the recognition of the corresponding brotherhood of humanity; as a philosophy it teaches how the divine life of God progressively manifests itself; and as a science it teaches how this process occurs, the laws which govern it and how human beings can hasten it.”*
16. Commenting on the first object Romer LJ said: “...one is struck not only by its width, but also by its vagueness and uncertainty, even when read in light of the plaintiffs’ affidavit...”
17. The House of Lords held in **Re Macaulay (1931)** that the first object of the society was not charitable. The court heard evidence which described “*the nucleus of Universal Brotherhood of Humanity*” as being “*a central body of persons formed to study and understand the principles of Theosophy as a nucleus to which other individuals can be added*”. This was accepted as “*a fair and accurate statement of the purpose*” and it was decided that the objects could not be regarded as charitable.
18. In these cases, the Court considered whether or not Theosophy was a religion. The present case concerns Theosophy not as a religion but as a moral and/or spiritual belief system.

### How do these legal authorities apply to the Society?

19. In light of these prevailing legal authorities, the Commission had to consider whether it had the jurisdiction to consider the Society’s application for registration as a charity, and in particular, whether it was bound by the issue of *res judicata* and the doctrine of precedent. *Res judicata* is a legal principle which prevents legal proceedings covering the same points of law in relation to particular issues between parties which have been

previously determined by Court, from being considered further by the Courts. The doctrine of precedent is that the lower courts, and indeed the Commission, are bound by the rulings of superior courts.

20. In the case of the **General Medical Council**<sup>1</sup>, the Commission concluded that it was entitled to form a view on whether or not an institution is a charity even though the courts have previously made a decision in respect of the same institution, provided that there are circumstances which would justify a reconsideration of the case. The Commission concluded that:

*“it was well established that what the law regards as charitable may change with changing social and economic conditions such that purposes regarded as charitable and beneficial to the public in one age may not be so regarded in a later age and vice versa. (National Anti-vivisection Society v IRC [1948] AC 31, Lord Simonds at page 74). The Commissioners were satisfied that they can consider again issues of charitable status where an earlier legal decision is distinguishable from the case they are now being asked to consider (even where the same body is involved) if it appears to them that the court itself might take a different view because of changed circumstances. This is reflected in the provisions of section 4(5) of the Charities Act 1993 (now section 34 of the Charities Act 2011) which enables the question of the charitable status of an institution to be reopened if it was previously treated as charitable but no longer enjoys charitable status or vice versa.”*

21. The Commission considered that the circumstances which might permit reconsideration of the charitable status of an institution notwithstanding legal precedent to the contrary would be significant changes in any of the area identified below:
- (i) changes in the relevant legal framework; and/or
  - (ii) changes in the constitution and activities of the body concerned; and/or
  - (iii) changes in social and economic circumstances and the general environment within which the body operates or in which its purposes may be carried out.

22. The Commission looked at each of these circumstances.

**(i) Changes in the relevant legal framework**

23. There have been no significant changes in the law since 1957 which would call into question the decision of the Court of Appeal in **Berry v St Marylebone**. However, the subsequent approach taken by the Court in the charity case of **Barralet and others v AG [1980] 3 All ER 918 (South Place Ethical Society)** provides some justification to examine and determine its application to the purposes of the Society in modern times. In **Barralet** Dillon J held that the society's objects were not for the advancement of religion but by analogy were charitable for the mental and moral improvement of man relying upon the decided cases of **Re Scowcroft [1898] 2 Ch 638**, **Re Hood [1931] 1 Ch 240** and **Re Price [1943] 1 Ch 422**.

**(ii) Changes in the constitution and activities of the Society**

24. The Society is the successor to an unincorporated body, with revised objects setting out the Society's purposes in a more modern form with greater clarity. The objects of the Society are significantly different from those considered by the Court in the cases of **Re Macaulay** and **Berry v St Marylebone Corporation**, although the Commission recognised that the activities may not have changed substantially.

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<sup>1</sup> (Charity Commission decision 2 April 2001)

(iii) **Changes in social and economic circumstances and the general environment within which the Society operates**

25. The Commission considered that there had been changes within society generally in terms of the social and economic context within which the Society now operates since the time of the decisions in **Berry v St Marylebone** and **Re Macaulay (1931)**. In particular, a variety of new religions, religious practices and philosophical bodies have emerged over time, alongside developments in the understanding of the concept of religion reflecting cultural changes in society. In addition, the Commission noted that human rights law protects a wide range of religious and other beliefs to include agnosticism and atheism. The Commission also recognised its duty to act consistently with human rights law.

26. The Commission noted that the evidence before the Court in **R (on the application of Hodkin and another) v Registrar General of Births, Deaths and Marriages [2013] UKSC 77** was that Theosophists had registered places of worship in England. Lord Toulson noted at paragraph 51

*“51: Unless there is some compelling contextual reason for holding otherwise, religion should not be confined to religions which recognise a supreme deity. First and foremost, to do so would be a form of religious discrimination unacceptable in today's society. It would exclude Buddhism, along with other faiths such as Jainism, Taoism, Theosophy and part of Hinduism. The evidence in the present case shows that, among others, Jains, Theosophists and Buddhists have registered places of worship in England. Lord Denning in Segerdal [1970] 2 QB 697, 707 acknowledged that Buddhist temples were "properly described as places of meeting for religious worship" but he referred to them as "exceptional cases" without offering any further explanation. The need to make an exception for Buddhism (which has also been applied to Jainism and Theosophy), and the absence of a satisfactory explanation for it, are powerful indications that there is something unsound in the supposed general rule”*

27. The Commission concluded that there is a sufficient basis for a detailed consideration of the status of the Society in light of the above developments.

**What is the impact of the Charities Act 2011 on these legal authorities?**

28. The purpose of the Society does not expressly fall within the descriptions of purposes in section 3(1)(a) -(l) of the 2011 Act. The Commission therefore considered whether it comes within the residual category of purposes in section 3(1)(m) of the 2011 Act:

*any other purposes—*

*(i) that are not within paragraphs (a) to (l) but are recognised as charitable purposes by virtue of section 5 (recreational and similar trusts, etc.) or under the old law,*

*(ii) that may reasonably be regarded as analogous to, or within the spirit of, any purposes falling within any of paragraphs (a) to (l) or sub-paragraph (i), or*

*(iii) that may reasonably be regarded as analogous to, or within the spirit of, any purposes which have been recognised, under the law relating to charities in England and Wales, as falling within sub-paragraph (ii) or this sub-paragraph.*

29. The most relevant section for consideration of the Society's purposes is section 3(1)(m)(i). Section 3 (4) provides that “In subsection (1)(m)(i), “the old law” means the law relating to charities in England and Wales as in force immediately before 1 April

2008.” Where any of the terms used in the descriptions of purposes has a particular meaning under charity law, it retains the same meaning (section 3 (3)) and is taken to mean what charity law, through case law, understands it to mean.

30. It is clear that the law on charitable purposes should be able to keep pace with changes in society and that it is sufficiently flexible to do so.
31. The issue of whether case law (prior to the introduction of the Charities Act 2006) on public benefit is binding was specifically addressed in the **R (Independent Schools Council) v Charity Commission [2012] Ch 214**. Paragraph 93 states:

*“It would also be necessary to consider whether the earlier case had specifically addressed the public benefit in either of the two senses. If the decision in the earlier case turned on a presumption (within the meaning of section 3(2)) that the purpose in that case was for the public benefit, the decision could not be relied on by institution A because that is precisely what section 3(2) precludes. The precedent effect, if any, of the earlier decision is abrogated. If the earlier decision did not turn on a presumption, but it was nonetheless assumed that the object was for the public benefit, or the issue was not debated at all, the decision would not give rise to a binding precedent in respect of that issue. This is because, as matter of general law, a decision of a court does not give rise to a legally binding precedent where a point of law has been assumed or not debated even where that point of law is a necessary component of the decision: see per Sir Nicolas Browne-Wilkinson V.-C. in In re Hetherington decd. [1990] Ch. 1 at 10G, subsequently approved by the Court of Appeal in R. (Kadhim) v. Brent London Borough Council Housing Benefit Review Board [2001] Q.B. 955.*

32. The Commission concluded that the decisions in **Re Macaulay** and **Berry v St Marylebone Corporation** are of value in considering whether the Society is a charity but may be distinguished on the facts and the law for the following reasons:
  - a. The objects of the Society considered by the Court to be non-charitable have been replaced with a more contemporary statement of the purposes with the requirements of charity law in mind and therefore include recognised charitable purposes.
  - b. The legal authorities did not debate whether the Society was established to promote the moral and ethical improvement of the community as a charitable purpose.

33. The issue of whether the Society is a charity must be decided on its objects as they are now expressed. This is in line with the observations of Atkin LJ in **Inland Revenue Comrs v Yorkshire Agricultural Society [1928] 1 KB 611** at 633.

#### **Are the purposes of the Society exclusively charitable?**

1. **Do the purposes fall within the descriptions of purposes in section 3 of the Charities Act 2011?**

##### **a. The promotion of moral or ethical improvement for the benefit of the public**

34. The promotion of the moral or ethical improvement is a charitable purpose that falls under the description of purposes in section 3(1)(m). The case law to support as charitable the promotion of ethical and moral improvement of the community is sparse. There is very little judicial reasoning within the cases for the recognition of this purpose.

The relevant cases are **Re Hood**, **Re Price**, **Re Scowcroft** and **South Place Ethical Society**. Commentary on this description of purpose is in **Picarda *The Law and Practice relating to Charities* (4<sup>th</sup> Ed) p.220-221** which describes a purpose for “*the promotion of moral or spiritual welfare or improvement*” and **Tudor *Charities* (9<sup>th</sup> Ed) p.124-128** which discerns a purpose for the promotion of “*mental and moral improvement*”.

35. **Re Scowcroft** and **Re Hood** were both cases concerned with the promotion of temperance primarily as a means of advancing Christian principles. **Re Price** was concerned with advancing the teachings of Rudolf Steiner which promoted mental and moral discipline. **South Place Ethical Society** was concerned with promoting the study and dissemination of ethical principles and the cultivation of a rational religious sentiment.
36. The Commission’s understanding of the law relating to this description of purpose is set out in the Commission’s **Church of Scientology** Decision and ***Analysis of the law underpinning Public Benefit and the Advancement of Moral or Ethical Belief Systems***.
37. To be charitable under this description of purpose the Commission considered that the Society must evidence the following:
  - Clear and certain objects relating to the promotion of Theosophy which incorporate a coherent definition identifying the beliefs, principles and practices.
  - The beliefs, principles and practices are accessible to the public and capable of being understood and accepted and applied or rejected by individuals according to their individual choice or judgement from time to time.
  - Moral improvement is central to the beliefs and practices.
  - Evidence of directly promoting moral improvement within society generally.
  - Evidence of a positive beneficial impact on the wider society not simply the followers.
  - Evidence to show it is not an inward focussed organisation benefitting members only.
38. The Commission considered that it is likely that for moral or ethical improvement to be shown a belief system would share characteristics with the beliefs attracting the protection of Article 9 of the European Convention on Human Rights. The European Court of Human Rights has held that ‘*belief*’ in this context extends beyond just mere opinions or deeply held feelings: there must be a holding of spiritual or philosophical convictions which have an identifiable formal content. One may expect it to concern something relating to an important aspect of human life and it would require “*a certain level of cogency, seriousness, cohesion and importance*”<sup>2</sup>
  - **Clear and certain objects relating to the promotion of theosophy which incorporate a coherent definition identifying the beliefs, principles and practices**
39. The Appendix to the Articles of Association confirms that the Society reserves “*for each member full freedom to interpret those teachings known as Theosophy*” and that it “*imposes no dogmas*”. The Society confirms that liberty of thought is a fundamental principle of Theosophy which it describes as the pursuit of knowledge and truth. In light of this the Commission questioned whether there is a distinct and unique character to Theosophy and whether there is sufficient coherence to identify a clearly defined set of

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<sup>2</sup> *Campbell and Cosans v United Kingdom* (1982) 4 EHRR 1)

principles and practices. Alternatively, whether Theosophy is so broad as to encompass differing principles and practices.

40. The Commission looked at a number of the Society's central texts setting out the principles and practices of Theosophy from which the definition of Theosophy had been distilled within the Annex. The Commission accepted there was evidence of an identifiable formal content to the convictions which are held and promoted internationally.

41. The Commission noted that other belief systems uphold the principle of liberty of thought and the lack of dogma consistent with the search for truth. It considered that if there is a sufficiently distinct character, a cohesiveness and cogency within the definition of Theosophy it may meet the qualifying characteristics. The Commission concluded that the Society's uniqueness may be found within its emphasis on the fundamental notion of universal brotherhood which it described as "brotherly love". It is this that underpins the promotion of moral and ethical improvement.

- **The beliefs, principles and practices are accessible to the public and capable of being understood and accepted or rejected by individuals**

42. The Commission noted that the definition of Theosophy provides a succinct explanation of the principles which are based on a search for truth and love for all living beings. The principles are based on a desire to promote understanding and fellowship to all and promote the study of Theosophy.

43. The Commission found explanations of Theosophy set out in various publications made widely available and disseminated by the Society on its website and through various events. Whilst the concepts may be broad and complex in nature they are made readily available and explained to those who wish to understand them.

- **Moral improvement is central to the beliefs and practices.**

44. The Commission noted that the definition of Theosophy gives some prominence to moral improvement, it states as follows:

*"Devotion to truth, love for all living beings and a commitment to life of active altruism are the marks of a true Theosophist."*

*"Recognition of the unique value of every living being expresses itself in reverence for life, compassion for all, sympathy with the need of individuals to find truth for themselves and respect for every religious tradition. The way in which these ideals become realities in individual life are both privileged choice and the responsible act of every human being."*

45. This is supported within the publication *"Theosophy The Wisdom Religion"*<sup>3</sup> which explains at page 20:

*"In so far as we can raise our consciousness to its level or in so far as we respond to it or sense anything of it, we feel our essential unity with other men, other creatures, with nature as a whole. Our higher Ego is the seat of unselfishness, of altruism, of self-forgetfulness. If we could live from that Spiritual Self we would so to speak know right from wrong and virtue would unconsciously motivate our every act. Sacrifice, patience, self-control, honesty, conscientiousness, love, wisdom, are the natural qualities of the higher Self....For*

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<sup>3</sup> Published by the Theosophical Trust

*the rest of the time we are less than that, and then we must be guided by the commonly accepted codes of conduct, ethics and morals.”*

- **Evidence to show it is not an inward focussed organisation benefitting members only.**

46. The Commission was satisfied, on the basis of the evidence presented, that there was some element of public benefit in the sense that it was not merely devoted to the self-improvement of its own members. The definition of Theosophy states that it is inclusive in nature and not an inward focussing organisation benefitting members only. *“Central to the concerns of Theosophy is the desire to promote understanding and fellowship among people of all races, nationalities, philosophies and religions.”* The website of the Society reinforces this.

- **Evidence of directly promoting moral improvement within society generally.**

47. The Commission noted that the definition of Theosophy promotes inclusiveness, equality, love for all living beings and a commitment to an active life of altruism. The website and publications of the Society reinforces this.

- **Evidence of a positive beneficial impact on the wider society not simply the followers.**

48. The Commission was satisfied, on the basis of the evidence presented, that the public are invited to participate without distinction and that the Society encourages reverence for life and compassion for all. It was satisfied that the Society’s focus was not on its members and it promoted behaviours which would have a beneficial impact on the wider community.

#### **b. The advancement of education**

49. The advancement of education is a description of purpose in section 3(1)(b) of the 2011 Act.

50. The Commission noted that the Foundation for Theosophical Studies a registered charity with objects TO ADVANCE EDUCATION IN AND PROMOTE OR FURTHER THE STUDY OF OR RESEARCH INTO RELIGION, PHILOSOPHY AND SCIENCE AND TO DISSEMINATE THE RESULTS OF SUCH STUDY AND RESEARCH TO THE PUBLIC proposed to merge with the Society in the event of it being registered as a charity.

51. The Commission considered whether the Society’s purpose *“the advancement of education, through the promotion and study of Theosophy”* meets the requirements of education in charity law as set out in its guidance ***The Advancement of Education for the Public Benefit*** and ***The Analysis of the law underpinning***.

52. In ***Berry v St Marylebone Corporation*** Romer LJ noted that the advancement of education means training of the mind and concluded:

*“The only teaching which, on the material before us, is involved in the first of the society’s objects is the teaching of the theosophical doctrine itself; and that cannot, in our judgement, be regarded as education ...”*

53. The Commission accepted that Theosophy as a subject of study is capable of having educative merit or value for the purposes of education in charity law. The teaching of the theosophical doctrine may be undertaken to advance education in the study of Theosophy as a proper subject of study. The Court accepted that the promotion of Christian knowledge was charitable as a trust both for the advancement of education and the advancement of religion.<sup>4</sup> The Court also accepted that *“the study and dissemination of ethical principles and the cultivation of a rational religious sentiment”* was charitable for the advancement of education and the promotion of mental and moral improvement.<sup>5</sup> Dillon J determined that (at [928]):

*“The whole of the society’s objects were also charitable as being for the advancement of education, a term which was to be construed widely. The dissemination of ethical principles in the first part of the objects included dissemination of the fruits of the study of those principles, and those objects were therefore for the advancement of education. The cultivation of a rational religious sentiment in the second part of the objects was also for the advancement of education, for a ‘rational’ sentiment or state of mind could be cultivated only by educational methods.*

*On the question of trusts for the advancement of education, the authorities show that the term ‘education’ is to be construed very widely. In the Incorporated Council of Law Reporting case, Buckley LJ in his judgment said ([1971] 3 All ER 1029 at 1046 [1972] Ch 73 at 102) that this head ‘should be regarded as extending to the improvement of a useful branch of human knowledge and its public dissemination’. In .Re Hopkins’ Will Trust Wilberforce J said ([1964] 3 All ER 46 at 52, [1965] Ch 669 at 689):*

*‘... that the word “education ... must be used in a wide sense, certainly extending beyond teaching, and that the requirement is that, in order to be charitable, research must either be of educational value to the researcher or must be so directed as to lead to something which will pass into the store of educational material, or so as to improve the sum of communicable knowledge in an area which education may cover—education in this last context extending to the formation of literary taste and appreciation.”*

54. To be educational the purpose must be directed to advancing education in a meaningful way *“so long as information... is provided in a structured manner and for a genuinely educational purpose – that is to advance the knowledge and abilities of the recipients – it may properly be viewed as falling within the advancement of education”*.<sup>6</sup> Education must not be propagandist and promote a particular view. It requires that the public be presented with information in a neutral way so that persons can choose for themselves and make up their own minds.<sup>7</sup>
55. The meaning of education is not static and evolves with changes in ideas about social values.<sup>8</sup> The Commission accepts that education has a wide meaning which includes personal development. *“The development of an individual’s intellectual, physical,*

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<sup>4</sup> AG v Stepney [1804] 10 Ves 22

<sup>5</sup> Re South Place Ethical Society [1980] 1 WLR 1565

<sup>6</sup> Vancouver Society of Immigrant and Visible Minority Women v Minister of National Revenue [1999] 169 DLR (4<sup>th</sup>) 34

<sup>7</sup> Re Bushnell (Deceased) [1975] 1 All ER

<sup>8</sup> IRC v McMullen [1981] A.C.

*emotional and spiritual capabilities are of fundamental value to both the individual and to the health and well-being of the society around them “.*<sup>9</sup>

56. The Commission concluded that there are aspects of the Society's purpose and its work which are capable of being for the advancement of education.

### Summary of purpose

57. The Commission concluded that there was evidence to show that:
- a. The characteristics of the purpose to promote moral and ethical improvement for the benefit of the public are met.
  - b. The purpose of the Society falls within the advancement of education.

### Public benefit

58. The Commission noted that public benefit for the promotion of the moral or ethical improvement of the community is normally one of intangible benefit where the legal test effectively requires assent by a consensus of opinion amongst people who are informed, fair minded and free from prejudice or bias. ***National Anti-Vivisection Society v IRC [1948] AC 31***, per Lord Wright at [49].

59. In order to establish that the public benefit requirement is met, an organisation has to show both the impact of its purpose on the public and that the impact is beneficial. The benefits, tangible or intangible, must be available to the public at large or to a sufficient section of the public. The purpose must not simply be for the benefit of the followers themselves but it should be outward looking extending to the public and not essentially private or limited to a private class of individuals. It is necessary to show that the beliefs and practices are accessible to the public and capable of being applied by the public in accordance with personal judgement or choice in such a way that the moral or ethical improvement of the community would or may be advanced.

- **Principle 1: There must be an identifiable benefit or benefits - Principle 1a: It must be clear what the benefits are and Principle 1b: The benefits must be related to the aims.**

60. For the advancement of moral or ethical improvement of the community to be advanced in a way that is charitable for the public benefit there must be ethics or morals promoted which can be shown by evidence to be for the benefit of the public. The Commission's view is that it is not sufficient to advance spirituality or spiritual beliefs on their own. In ***Analysis of the law underpinning Public Benefit and the Advancement of Moral or Ethical Belief Systems***, the Commission says that:

*'Charities promoting non-religious philosophical beliefs will usually have to demonstrate social impact by reference to welfare or improvement. It is, however, unlikely that purely 'spiritual' benefits, not having a moral content, could be demonstrated by evidence cognizable by the Court. Certainly, the belief evidenced by an organisation's teachings that any given practices are of spiritual efficacy is insufficient to establish that as a fact. Further any alleged spiritual benefit arising from the edification by the example given to the public by followers of any particular teachings is similarly insufficient to establish public benefit. The court has established that the existence of a benefit of the necessary public character must be shown to exist by proof of matters 'having a demonstrable impact on the community or a section of it'.*

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<sup>9</sup> *The Advancement of Education for the Public Benefit and The Analysis of the law underpinning.*

61. The Commission's position is that it is not enough that there is a presumption that individuals will behave in a way that impact beneficially on society having received guidance.

62. The Commission concluded that there is scope for benefit to flow from the fundamental propositions of Theosophy as defined by the Society. This evidences the holding of moral and spiritual values and that these will be promulgated through its meetings, events and publications. It is not simply concerned with the advancement of spiritual development and spiritual benefits to the followers. The behaviours and practical application of those values is promoted by the Society. This is evident from the definition of Theosophy and its publications which explain what Theosophy is about. In the Commission's view the values of altruism, love for all living creatures and associated behaviours are ones which would be accepted by a consensus of opinion amongst people who are informed, fair minded and free from prejudice or bias. There is some evidence to establish that the core principles are beneficial and essentially public. The likelihood is that the promulgation of the principles of the Society can be said to benefit society through promoting moral and ethical values.

- **Principle 1c: Benefits must be balanced against any detriment or harm**

63. No issues of harm or detriment flowing from the purpose were identified by the Commission. So far as the Commission is aware Theosophy does not within its teachings include anything contrary to the law, or in contravention of public policy. The Commission, like the court, is not concerned with the truth or otherwise of the teachings.

- **Principle 2: Benefit must be to the public, or section of the public; Principle 2a: The beneficiaries must be appropriate to the aims; Principle 2b: Where benefit is to a section of the public, the opportunity to benefit must not be unreasonably restricted; Principle 2c: People in poverty must not be excluded from the opportunity to benefit**

64. In relation to charities advancing moral or spiritual belief systems, the Commission would expect to see a wide public benefit going beyond the members of the belief system concerned. The Court in *Re Macaulay* considered the gift was in part a gift to members for their own benefit.

65. The Commission concluded that the purposes of the Society and the evidence as to the openness of its services demonstrate that it is outward looking and extends to the public generally. It noted the Society has approximately 1,000 members who live their lives within the wider community. Membership is £40/year and advertised as being open to all who wish to join. The Society provides a range of regular courses, talks and workshops which are advertised. Although fees are charged, these are not high and concessions are available alongside bursaries offered for those attending courses. The bursary fund makes available £5,000-6,000 per year. Reduced charges and bursaries are advertised.

66. The Commission concluded that the doctrines, beliefs and practices of the Society are accessible to the public and capable of being applied by members of the public according to individual judgement or choice from time to time in such a way that benefit to the community may result

- **Principle 2d: Any private benefits must be incidental**

67. No issues of private benefit were identified. The Society appears to be an altruistic organisation which relies upon volunteers. The practices are not private or limited to a private class of individuals but extend to the public generally.

**Summary of public benefit**

68. The Commission was satisfied that the public benefit requirement is met for the reasons set out above.

## **Annex 1**

### **Preamble to the Articles of Association of The Theosophical Society in England**

*The Theosophical Society in England (the Society) was originally established as a component society of The Theosophical Society (known as the 'International Society'), founded in New York, USA, on 17th November 1875 by Helena Petrovna Blavatsky, Colonel Henry Steel Olcott, William Quan Judge and others and incorporated under the laws of British India on 3rd April 1905 with its Headquarters at Adyar, India. The primary objects of The Theosophical Society were first articulated in 1875 and went through various revisions in the following years.*

*The object of the Society was designed to reflect The Theosophical Society's objects as follows:*

- i. To form a nucleus of the Universal Brotherhood of Humanity without distinction of race, creed, sex, caste or colour.*
- ii. To encourage the study of comparative Religion, Philosophy and Science.*
- iii. To investigate unexplained laws of Nature and the powers latent in man.*

*The Theosophical Society's objects are concerned with (a) promoting the moral and spiritual development of humanity, through the Society's emphasis on universal brotherhood and (b) education, because the underlying work of the Society is to promote, sustain and increase individual and collective knowledge and understanding in specific areas of study. It is implicit that these objects are carried out within the context of Theosophy.*

*The first and most important object seeks to promote and disseminate the notion of universal brotherhood. It is important to clarify that the Society is not seeking to create a universal brotherhood of humanity as Theosophy is based on the assumption that this already exists in nature. This assumption is not a mere unjustified assertion. It is tested, analysed and discussed at great length in Theosophical literature.*

*An understanding of this holistic concept is fundamental to the development of human rights, religious and racial harmony, and understanding between peoples and nations. Although it is not the Society's aim to evangelise these issues, it is the Society's purpose to provide a context within which these issues can be better understood and thereby, in a subtle way, promote the moral and spiritual ethos that underpins the concept.*

*The second object deals with the development and dissemination of knowledge at an external level and the third object deals with the development and dissemination of knowledge at an interior psychological and spiritual level.*

*The underlying intentions of the Society are charitable in that they are promoting the moral and spiritual development of humanity and also promoting education through the dissemination of knowledge and skills. However, the articulation of the objects dates from 1896 and used language which has developed and taken on fresh meanings. The objects of the Society, as set out below, reflect the contemporary approach of the Society which is both continuous with, and has developed since the original founding of, The Theosophical Society in 1875.*