

RELIGIONS WORKING TOGETHER

RESPONSE TO SENATE ECONOMICS COMMITTEE'S INQUIRY ON THE TAX LAWS AMENDMENT (PUBLIC BENEFIT TEST) BILL 2010

Religions Working Together

Religions Working Together consists of representatives of many different faiths in the United Kingdom, promoting a better society through co-operation and tolerance. We have taken a particular interest in how new charities legislation will affect religious organisations.

Daoud Rosser-Owen gave oral evidence on behalf of Religions Working Together to the British Houses of Parliament Joint Scrutiny Committee on the Draft Charities Bill in 2004. His contact details are as follows:

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Submission

Religions Working Together was very actively involved in the pre-legislative and legislative process which eventually produced the Charities Act 2006 which made fundamental changes to charity law and administration in England and Wales. That process started in 2001 when the Prime Minister commissioned his Strategy Unit to carry out a review of the law and regulation of charities and not for profit organisations. The Strategy Unit published its review in September 2002 under the name "Private Action, Public Benefit". It made 61 recommendations. The Charity Commission for England and Wales published a response in November 2002, and the government published a response in July 2003 following consultation. A Draft Charities Bill was published in May 2004. This was reviewed by the House of Lords and House of Commons Joint Committee on the Draft Charities Bill which published its report in September 2004. A Charities Bill was then introduced but lost as a result of the 2005 General Election. It was then reintroduced in November 2005 and finally enacted in November 2006.

As can be seen the English Charities Act 2006 followed one of the most comprehensive and exhaustive consultation and scrutiny processes ever seen for any UK legislation. Although the Act removed the previously existing (rebuttable) presumption that organisations for the advancement of education or religion provided a public benefit, it did not attempt to change the law on, or put into statutory form, what was meant by "public benefit".

The Tax Law Amendment (Public Benefit Test) Bill proposes the formulation of a public benefit test to be set out in regulations, and seeks to lay down some minimum requirements. Such an approach was rejected in England after considerable deliberation and debate. It was decided to not change the common law on what was meant by public benefit, but that the Charity Commission should produce guidance to help organisations understand what public benefit meant for different types of charity.

The difficulties that the Charity Commission has had in producing its guides only serves to highlight the great difficulty there would be in formulating a statutory public benefit test suitable for all types of charity. In fact it is really not sensibly possible.

When we presented evidence to the Joint Scrutiny Committee we produced a table of 11 religious charities of different types and covering a range of different religions. This table, as subsequently edited by Michael King and Stephen Slack of the Charity Law Association, is appended below. The table summarised the main activities, and the method of funding those activities, for each religious charity.

When the table was first produced guidance from the Charity Commission was to the effect (a) that the only acceptable religions were ones which involved the worship of a supreme being - which arguably excluded 3 of these charities, (b) that the only acceptable public benefit was that conferred by public worship services - which may have put 7 of these charities in trouble, and (c) that it was not acceptable for a religious charity to provide individual spiritual services as a significant part of its activity - which would have excluded all 11 of the charities.

Fortunately, when the Charity Commission finally produced its new guidance all 11 religious charities appear to be acceptable. However we still see problems in that guidance since it demands that religious charities directly promulgate identifiable moral conduct, as opposed to simply having a tendency to lead to more moral conduct. In practice not only does this approach mean that organisations have to show that they deliver a “benefit” beyond the benefit that they were previously presumed to provide, but it is also likely to lead to discrimination against smaller less well known religions and religious groups. We are doubtful that some aspects of the new guidance will stand up to scrutiny by the courts when it is eventually tested.

We also note that under the proposed new law it is the aims and activities of a body which must meet the public benefit test. In England it is only the purposes that have to be in the public benefit, although sometimes activities need to be considered in order to understand properly what the stated purposes mean. What is proposed in Australia is therefore a large departure from this. We respectfully suggest that this would lead to major problems and massive extra costs to administer. It is also entirely unnecessary. The purpose must be in the public benefit and all activities must properly and lawfully further the purpose.

It is important when considering matters such as this to carefully consider the impact of any changes on actual religious charities. This is why we have included details of 11 actual religious charities in the appendix to this submission.

We would be happy to provide any further information that the Committee may require.

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APPENDIX

Purposes of the 11 religious charities

In the table below we have set out the purposes of each of the 11 English charities referred to in the appended table. For the last 9 these are taken directly from the Charity Commission website. The first two are taken from existing Church of England and Catholic charities.

Religious Charity	Purpose
A Church of England parish	To advance Christianity in accordance with the principles of the Church of England
A Catholic Diocese	The advancement of the Christian Faith by the propagation of the gospel of our lord and saviour Jesus Christ
The Church of the Latter-day Saints (Great Britain)	To promote and further the religious and charitable work of the Church of Jesus Christ of Latter-day Saints
The Society of Spiritual Development	(A) advancing religion in particular in accordance with the holy Vedic tradition as taught by Sri Shankara (B) relieving

	poverty in particular among followers of the holy Vedic tradition
The Vishwa Hindu Kendra Southall	To advance the Hindu religion
Association of Christian Counsellors	Furtherance of the Christian religion and education
Bridge Christian Counselling Centre	The advancement of the Christian religion by a) the provision of counselling services to those persons in need by reason of their sickness hardship or distress b) the provision of training in counselling c) promoting and encouraging the provision of counselling
The Buddhist Society, UK (Buddhist Society London, Limited)	To advance the education of the public in the principles of Buddhism and to encourage and promote the study and application of those principles
Jain Academy	The advancement of the Jain religion particularly but not exclusively by the provision of an academy for the study of Jainism and the dissemination of Jain values
The Sternberg Centre for Judaism	To promote, foster and advance the study of Judaism and of the Jewish religion and way of life in all of its aspects, both religious and secular
Green Pastures Christian Centre of Pastoral Care and Healing	The advancement of the Christian religion in such ways as are charitable

How Different Religious Charities Advance Religion

Religious Charity	Main Activities	Method of Funding Activities
A Church of England parish	The work of a Church of England parish is typically carried out under the leadership of a stipendiary minister, supported by a number of volunteers. The relevant charity is the parochial church council (or 'PCC'), which includes elected representatives of the laity as well as the clergy of the parish and exists to co-operate with the minister in furthering the mission of the church in the parish. Whilst the focus of the parish's activity is the regular celebration of public worship, open to all, parishes typically undertake a range of other activities to	Whilst the Church of England as a whole benefits from the income of historic endowments, in practice each parish is increasingly expected to support itself (including by making payments to the diocese towards the cost of its clergy's stipends, pensions and housing and by meeting the costs of maintaining and repairing its church buildings – which are often historic). To that end regular attenders recognise their responsibility to support their parish financially, through regular payments, whether in cash or by standing order. (Nearly half of regular church goers (more than 400,000) Gift Aid

Religious Charity	Main Activities	Method of Funding Activities
	<p>promote the Church's mission, including teaching and other activities directed to the encouragement of spiritual growth and the provision of pastoral care – not just for regular attenders, since the Church of England sees itself as being available to meet the needs all those resident in the parish. There may well be associated charities, some concerned with social action in the wider community (such as facilities for young people or particular disadvantaged groups).</p>	<p>a donation of £400 or more a year paid by standing order.) Some income is also derived from (modest) fees for particular services (such as marriages) which, though payable to the minister, generally benefit the diocese.</p>
A Catholic Diocese	<p>The RC Church in England & Wales is divided into 22 geographical dioceses, each of whom is a registered charity. Like the Church of England the exercise of clerical office by the professional minister or priest is known as the “cure of souls”. This involves instruction by sermons and admonitions, and purification through the seven sacraments, pre-eminently the Mass or Eucharistic service. The important sacrament of penance involves private confession of sins to the minister by a church member and absolution for those sins. As with the Church of England church, a significant part of the work of the charity is the pastoral counselling by the minister of individuals considered to require help and guidance.</p> <p>As in the Church of England, church members are encouraged to work for the good of humanity either personally or directly through the Church or via independent charities.</p> <p>In addition there are in England & Wales over 250 religious orders or communities (Anglican & Catholic), most of which are registered charities and which carry out religious, educational and care work, from churches and retreat houses and independent and maintained schools to hospitals, hospices and other care and</p>	<p>Internationally, through the See of Rome, the Roman Catholic Church owns substantial investment properties from which it derives a large income, but RC dioceses in the UK are self-supporting. Church goers are expected to contribute money each week, usually in envelopes or by Gift Aid donation and standing orders. Certain Masses and services are paid for by stipends, and this money is usually paid directly to the Priest for his own benefit.</p> <p>These are independent of the denominations to which they adhere and raise money through fee income (primary purpose trading), investments (often resulting from sales of previously-functional property) and sometimes public fundraising for specific activities._</p>

Religious Charity	Main Activities	Method of Funding Activities
	welfare operations	
<p>The Church of the Latter-day Saints (Great Britain)</p> <p>Registered no 242451</p>	<p>This charity acts as the legal corporation of the Mormon church in Great Britain and co-ordinates the administration of church programmes. There are no paid clergy as such, but all members of the church are encouraged to participate in church affairs. There is considerable emphasis on converting new people to a belief in God, the human soul and the teachings of the charity; and all members have to engage in full time missionary work for 2 years. Teacher development courses and leadership training are provided. Considerable personal guidance is provided to members. The principle congregational services conducted in the temple can only be attended by church members who have a temple recommend – which means that they have been accepted by the bishop as having a sufficient degree of spiritual maturity and have paid their tithes.</p>	<p>The work of this charity is principally funded by followers contributing one tenth of their income as a tithe.</p>
<p>The Society of Spiritual Development</p> <p>Registered no 292171</p>	<p>Also known as The School of Meditation, the object of this charity is to advance religion by teaching people to meditate, and thereby gain spiritual insight. It runs classes, and has a weekly meeting where people can come and meditate together. Considerable individual guidance is also provided.</p>	<p>Persons attending the school for the first time are asked to donate the equivalent of one week's income.</p>
<p>The Vishwa Hindu Kendra Southall</p> <p>Registered no 262922</p>	<p>The object of this charity is to advance the Hindu religion, and it provides a Hindu temple in West London. Faith in the Hindu religion is a personal and individual discipline which cannot be governed by religious bodies. Private devotions and study are most important for the individual Hindu. The temple provides a place for this to occur, as well as for communal devotions. The Hindu priest leads communal devotions, and assists in the interpretation of scriptures. A puja is a sacred ritual performed by the priest</p>	<p>This charity mainly funds its activity by selling pujas. A price list is provided for different types of puja. The typical price of a puja is £100, and typically a Hindu will purchase two a month.</p>

Religious Charity	Main Activities	Method of Funding Activities
	in the temple, and is considered an exact science in which the priest is trained. Pujas are carried out for the individual, and are specific to the individual based on their karma from this life and previous lives. Pujas are often performed to help with specific events in a person's life such as starting a business, or beginning a journey.	
Association of Christian Counsellors Registered no 1018559	This charity seeks to advance the Christian religion by being an organisation which draws together Christians involved in counselling. It encourages training in Christian Counselling, sets accrediting criteria, oversees training, recognises courses and advises agencies on training standards. It is a membership organisation, with different types of membership.	This charity funds itself by charging its members annual membership fees.
Bridge Christian Counselling Centre Registered no 1049962	This charity seeks to advance the Christian religion by providing counselling services to Christians in distress, providing training in counselling and generally encouraging counselling by Christians.	This charity funds itself by seeking donations and covenants from churches and individuals and running courses.
The Buddhist Society, UK (Buddhist Society London, Limited) Registered no 294198	The object of the Buddhist Society is to publish and make known the principles of Buddhism and to encourage the study and practice of those principles. The Society presents the major Buddhist Schools and traditions, and in its extensive library there are books on all Buddhist subjects. The Society sells memberships, books, cassettes and subscriptions to its magazine. The Society holds lectures, classes and activities in the Theravada, Mahayana and Vajrayana schools. Some are open to the public including an introductory course; there are also classes and lectures for members only.	The Society solicits donations and sells memberships, books, cassettes and subscriptions to its magazine.
Jain Academy Registered no 1018833	The object of this charity is the advancement of the Jain religion through the establishment of an academy for the study of Jainism and the dissemination of Jain values. Its	Invites donations from supporters.

Religious Charity	Main Activities	Method of Funding Activities
	activities to date have been the establishment of Jain studies at different universities, and the setting up of Jain book libraries. The essence of Jainism is that through conducting themselves in the correct way all individuals can eventually reach a state of liberation from the physical universe.	
The Sternberg Centre for Judaism Registered no 283083	To promote, foster and advance the study of Judaism and of the Jewish religion and way of life in all of its aspects, both religious and secular. The Sternberg Centre is a cultural centre for Reform Judaism. It publishes a magazine, operates Reform synagogues, art exhibitions, a college, libraries and museums, all covering various aspects of Judaism. It holds lectures, art classes, and other cultural events, in addition to traditional Jewish worship services on the Sabbath and on the Jewish holy days.	Funding is from the sale of memberships, subscriptions to its magazines, college tuition, fees for the lectures, exhibitions and museum exhibits it sponsors, and temple dues for the synagogues it operates.
Green Pastures Christian Centre of Pastoral Care and Healing Registered no 1090568	The object of this charity is to provide a home under conditions where true healing of the whole personality may take place in an atmosphere conducive to the working of the holy spirit, enabling his power and love to transform the lives of those who seek his help, and to provide for the spiritual welfare of its guests, by personal counselling where required. It owns a large property in the Dorset countryside, which has all of the facilities of a quality hotel. Guests usually stay for a few days or weeks at a time and are offered individual prayers for healing, counselling and spiritual direction. House parties and conferences are also catered for.	A charge is made depending on the length of stay and type of accommodation. The usual single person rate is £38 per night, or £57 per night en-suite. An extra charge is made of house parties and conferences. A charge of £20 per hourly session is made for spiritual accompaniment and counselling.

David Rosser-Owen, President AoBM, for Religions Working Together, 26 June 2010