

Religious exemption update



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Para. 11 of Sched. 5 to the Local Government Finance Act 1988

(1) A hereditament is exempt to the extent that it consists of any of the following—

(a) a place of public religious worship which belongs to the Church of England or the Church in Wales (within the meaning of the Welsh Church Act 1914) or is for the time being certified as required by law as a place of religious worship;

(b) a church hall, chapel hall or similar building used in connection with a place falling within paragraph (a) above for the purposes of the organisation responsible for the conduct of public religious worship in that place.



(2) A hereditament is exempt to the extent that it is occupied by an organisation responsible for the conduct of public religious worship in a place falling within subparagraph (1)(a) above and—

(a) is used for carrying out administrative or other activities relating to the organisation of the conduct of public religious worship in such a place; or

(b) is used as an office or for office purposes, or for purposes ancillary to its use as an office or for office purposes.

(3) In this paragraph 'office purposes' include administration, clerical work and handling money; and 'clerical work' includes writing, book-keeping, sorting papers or information, filing, typing, duplicating, calculating (by whatever means), drawing and the editorial preparation of matter for publications.



Setting the scene ...

- *Gallagher v Church of Jesus Christ of Latter-Day Saints* [2008] 1 WLR 1852 (HL) – (a) place of worship had to be open to the public; (b) no ECHR discrimination; and (c) “in connection with” in para. 11(1)(b) implied use ancillary to use of place of public worship. Result - not exempt.
- *R (Hodkin & anr) v Registrar General of Births, Deaths and Marriages* [2014] AC 610 (SC) – Scientology chapel is a “place of meeting for religious worship” for purposes of s.2 of the Places of Worship Registration Act 1855 – overruling *R (Segerdal) v Registrar General* [1970] 2 QB 697 (CA)



Church of Scientology v Ricketts (VO)
[2023] UKUT 00001 (LC) – 5 Jan 23, Deputy President and Mr Higgin

- Exemption of buildings used by Church of Scientology under para 11 as place of public religious worship and related church premises
- Two buildings in Central London – London Church and Information Centre
- Proposal to delete assessments rejected by VO and appeal to VTE dismissed.



UT decides (1):

Chapel at London Church *is* place of public religious worship under para 11(1)(a) – see [80]-[96], especially [95]:

"Taking the evidence as a whole, we are entirely satisfied that at the material time in 2013 the chapel at the London Church was a place of public religious worship, and that it has continued to be so. The building itself indicates by its permanent signage and branding that it is a place where strangers are welcome, including to attend services. The Church actively invites non-Scientologists who have had no previous significant contact with the religion to participate in its services as a way of introducing them to its message and encouraging them to discover more. It uses conventional advertising on its premises, which are open to visitors every day, as well as word of mouth, email invitations, and its website. Its ambition is not limited to drawing its existing members closer, or attracting their immediate friends and family, and plainly extends to all comers. We unhesitatingly reject the submission made in closing by Ms McCarthy KC that, at as a matter of practical reality, the Chapel at the London Church is no more public than the Mormon Temple in Gallagher because though the public at large are not excluded by technical rules, their participation is prevented by an absence of information and active invitation. Newcomers come to the London Church in modest numbers, and no doubt if the building was in a more residential neighbourhood, or in a location with a higher pedestrian footfall, it would attract more to its congregational services. But it is not the public's response to an invitation extended by a church which marks a religious service out as public worship, it is the invitation itself and the openness of the church to admit any well-disposed persons who may choose to accept it ..."



UT decides (2):

- Offices were exempt for purpose of para 11(2)(b) – see [97]-[122]
- Key issue: did office need to be used for a purpose ancillary to the public religious worship conducted elsewhere? Answer NO, difference in wording between (2)(a) and (b) deliberate
- UT at [121]:
- “ ... *Use as an office or for office purposes, provided it is used by an organisation responsible for the conduct of public religious worship in a place certified by law, is sufficient to gain exemption for so much of the hereditament as is so used. There is no further requirement of a connection or relationship between the office use and the place of religious worship.*”



UT decides (3):

- Para. 11(1)(b) - church hall or similar building
- Functional question, rather than one dependent on appearance; “focus is on what the space is primarily used for” [125]. Appropriate to consider usage of space in “fairly general terms” and ask whether activity for which used is sort of activity would expect to find in a church hall etc. Range of activities likely to be “pretty wide” [126]. VO should not inquire too closely into spiritual significance or religious motivation for a particular activity [127]-[128]
- Did not include areas used for training of auditors [130] or office which was “akin to a shrine” [131]
- No condition of public access and payment for participation not a bar [139]
- Availability of exemption does not depend on relative size of spaces used for different purposes [141]
- Information Centre not exempt, save for self-contained offices and storage spaces [143]



Takeaways





- Decision on public religious worship follows inextricably from *Hodkin* and *Gallagher*
- Welcome clarity on scope of exemption for offices under para 11(2)(b) – which is wide-reaching
- Useful discussion on essence of para 11(1)(b) – church hall or similar building - albeit that application is always going to be fact sensitive.



Thank you

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