

UPPER TRIBUNAL (LANDS CHAMBER)



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TRIBUNALS, COURTS AND ENFORCEMENT ACT 2007

*RATING – EXEMPTION – Church of Scientology – whether hereditaments occupied by the Church of Scientology were entitled to exemption – whether places of public religious worship – whether church hall or similar building – whether offices or used for office purposes – para.11, Sch. 5, Local Government Finance Act 1988 – appeal allowed in part*

AN APPEAL AGAINST A DECISION OF THE VALUATION TRIBUNAL  
FOR ENGLAND

BETWEEN:

THE CHURCH OF SCIENTOLOGY  
RELIGIOUS EDUCATION COLLEGE INC

Appellant

-and-

ANDREW RICKETTS  
(VALUATION OFFICER)

Respondent

146 Queen Victoria Street,  
London EC4V 4BY  
and  
68 Tottenham Court Road,  
London W1T 2EZ

Martin Rodger KC, Deputy Chamber President and Mark Higgin FRICS

Heard on 19-21 October 2022

*Richard Glover KC and Cain Ormondroyd, instructed by Hodkin & Company, for the appellant  
Hui Ling McCarthy KC and Hugh Flanagan, instructed by HMRC Solicitors, for the respondent*

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The following cases are referred to in this decision:

*Broxtowe v. Birch* [1983] 1 WLR 314

*Church of Christ Scientist v Westminster Corporation* (1958) 3 RRC 35

*Church of Jesus Christ of Latter-Day Saints v. Henning* [1964] AC 420

*Gallagher v. Church of Jesus Christ of Latter-Day Saints* [2008] 1 WLR 1852

*Gillett v North West London Communal Mikvah* (1982) RA 346

*Johnson (VO) v H&B Foods Ltd* [2013] UKUT 539

*R. (Hodkin) v Registrar General* [2013] UKSC 7

*R v Registrar General, Ex p Segerdal* [1970] 2 QB 697

*Trustees of West London Methodist Missions v Holborn Borough Council* (1958) 3 RRC 86 (DC)

*W & J B Eastwood v Herrod (VO)* [1971] AC 160

## Introduction

1. Scientology is a religion. The issue in this appeal is whether two buildings used by the Church of Scientology in London are exempt from non-domestic rating under an exemption covering places of public religious worship and related church premises.
2. The key to the relevant exemption is that the hereditament concerned must be or include “a place of *public* religious worship”. To the extent that it consists of such a place a hereditament will be exempt, and certain other places occupied by the same body will also be exempt (church halls and similar buildings used in connection with a place of public religious worship, and certain offices) (section 51, and paragraph 11 of Schedule 5 to the Local Government Finance Act 1988 (the 1988 Act)).
3. In *R. (Hodkin) v Registrar General* [2013] UKSC 77, the Supreme Court determined that the Scientology chapel at 146 Queen Victoria Street is a place of meeting for religious worship within section 2 of the Places of Worship Registration Act 1855 which could be registered as a place for the solemnisation of marriages under the Marriage Act 1949. As a result, for the first time, members of the Church could lawfully marry there.
4. In reaching that conclusion the Supreme Court overruled *R v Registrar General, Ex p Segerdal* [1970] 2 QB 697, a decision of the Court of Appeal which had held sway for more than 50 years. In *Segerdal* Lord Denning MR had characterised Scientology as “more a *philosophy* of the existence of man or of life, rather than a *religion*” and as having “nothing in it of reverence for God or a deity”. The Supreme Court decided that, at least on a contemporary understanding of religion and religious worship, the Court of Appeal had adopted an unduly narrow view.
5. The question in *Hodkin* was simply whether the Scientology chapel was a place of meeting for religious worship. The Supreme Court did not have to consider whether that worship was public. Nor was it concerned with the uses of other parts of the building which contains the chapel. Both are in issue in this appeal.
6. The appellant is the Church of Scientology Religious Education College Inc (the Church) (an incorporated association registered as a charity in Australia). It occupies two buildings in Central London, the London Church of Scientology at 146 Queen Victoria Street, London EC4 (the London Church) (which was the focus of the dispute in *Hodkin*) and the Dianetics & Scientology Life Improvement Centre at 68 Tottenham Court Road, London W1 (the Information Centre).
7. The appeal arises out of proposals lodged on 12 March 2015 and 18 March 2015 against the 2010 list assessments for the London Church and the Information Centre. Both proposals sought exemption by deletion of the relevant assessments with effect from 31 May 2011, and both were rejected as unfounded by the Valuation Officer. The appeal is against a decision of Mr Gary Garland, the President of the Valuation Tribunal for England (the VTE), handed down on 10 June 2021, by which he dismissed appeals by the Church against the rejection of the proposals. On the basis of the evidence he had heard

the President concluded that neither hereditament contained a place of public religious worship.

8. At the hearing of the appeal Mr Richard Glover KC and Mr Cain Ormondroyd appeared for the Church and called some of its members to give evidence about its practices and their own experiences of Scientology, Ms Stefania Cisco, Mr Leandro Calcioli, Ms Alison Hidalgo, and Mr Adrian Bennett; evidence was also given by the Church's solicitor, Mr Peter Hodkin, himself also a member, whose witness statement included a detailed account of the official hostility which existed towards Scientology in the 1960s and 1970s. Ms Hui Ling McCarthy KC and Mr Hugh Flanagan appeared for the Valuation Officer and called Dr George Chryssides, Honorary Research Fellow in Contemporary Religion at the University of Birmingham and Mr Jonathan Cooper MRICS of the Valuation Office Agency to give evidence. We are grateful to them all for their assistance.
9. After hearing the evidence we inspected both buildings on the morning of 24 October 2022. Before describing them it is convenient to say something about the Church and the core practices of Scientology for which the buildings are used.

### **The Church and its practices**

10. The word *Scientology*, coined by the US author L. Ron Hubbard, comes from the Latin *scio* meaning "know" or "distinguish", and the Greek *logos*, meaning "reason" or "inward thought". The Church's own literature explains that Scientology therefore means "knowing how to know".
11. A description of the essential beliefs of Scientology can be found in the judgment of Lord Toulson in *Hodkin* at [16] to [22]. The doctrine of the Church is based exclusively on the writings and recordings of L. Ron Hubbard and a significant part of the practice of Scientology consists of the study of that work.
12. After studying engineering and a successful early literary career, L. Ron Hubbard developed an interest in mental health leading in 1950 to the publication of his initial findings under the title of 'Dianetics: The Modern Science of Mental Health'. Scientologists believe that Mr Hubbard subsequently identified the nature of 'life energy' or 'life source' which he termed 'theta' after the Greek symbol for spirit or life. He held that people are spiritual beings whose experiences extend well beyond a single current lifetime. He termed these beings 'thetans'. In his later works Mr Hubbard described the factors that kept these spiritual beings trapped in the physical world resulting in the loss of their true identity. He developed techniques intended to unlock higher levels of spiritual awareness and called this work Scientology.
13. The first formal Church of Scientology was established in Los Angeles in 1954 and there are now thousands of Scientology churches in over 160 countries. There are nine churches in the UK, including the London Church and an "Advanced Church" at Saint Hill Manor in West Sussex. Estimates of the Church's total UK membership vary widely. In the 2011 Census for England and Wales 2418 people positively identified as Scientologists but some media estimates have ranged from 15,000 adherents to as many as 118,000.

14. Following the success of the Church's case in *Hodkin*, the chapel at the London Church was registered as a place of religious worship under the Places of Worship Registration Act 1855 on 18 December 2013. The whole of London Church was registered on 19 May 2014, as were the Information Centre and the chapel at Saint Hill. Both appeal hereditaments were also registered as places of religious worship for the solemnisation of marriages.
15. Saint Hill Manor is the largest Scientology church in England and on 18th June 2014 the Valuation Office Agency determined that its chapel and its Great Hall were exempt from rating as places of public religious worship; a number of offices at Saint Hill were also exempt.
16. We will refer here to the largely uncontroversial evidence we heard about the practice of Scientology. There were divergences of view over matters which we regard as being of little significance (such as the relative importance to Scientologists of attendance at Sunday services as compared to the other practices of their religion). The Church's witnesses were manifestly sincere, and we accept their evidence as truthful and accurate, especially on matters concerning their own beliefs and practices. That does not mean that we doubt the honesty of Mr Cooper's evidence or the expertise of Dr Chryssides. The only topic about which there was much disagreement was the extent to which the Church's formal worship was advertised to the public. We will deal with that when we consider whether the Chapel at the London Church is a place of public religious worship.

#### *Sunday services*

17. The Church conducts a weekly Sunday service in the chapel at the London Church. Entry to this service is free of charge and no collection is taken up. Scientology chapels are relatively small spaces and the room used for this purpose at the London Church has capacity for only about 60 or 80 people (with others capable of being accommodated in the adjacent café area for large services such as weddings). The photographs we were shown of Sunday services taken around the material date in 2013 showed that small congregations of around 10 to 20 were typical at that time, while larger groups of up to 50 might attend wedding or naming ceremonies.
18. Each Sunday service is conducted by an ordained minister and follows a set format. This comprises a recitation of the Creed of Scientology and a sermon based on the writings of Mr Hubbard or the playing of a recording of one of his lectures. Auditing (which we describe below) is central to the practice of Scientology and the Sunday service includes group auditing, where the minister acts as the auditor and the auditing activity relates to the topic of the sermon. The service also provides an opportunity for announcements concerning community programs and outreach activities. It concludes with the recitation of the Prayer for Total Freedom. The whole service will last for only about 20 or 30 minutes and is often followed by refreshments.
19. Miss Cisco is an ordained minister of the Church and its Director of Special Affairs in London. She explained that because the Sunday Service is the only public congregational service which includes the Creed of the Church and the Prayer for Total Freedom, which

together express the core beliefs of Scientology, it is felt to be a good introduction to the Church for members of the public. Nevertheless, while we accept that attendance at Sunday services is encouraged for all Scientologists, the evidence suggests that congregational services are less central to the practice of their religion than participation in formal religious services is to adherents of some other faiths. In Scientology, greater emphasis is placed on other forms of observance. We heard evidence, in particular, about the practices of ‘auditing’ (sometimes called ‘processing’) and ‘training’.

### *Auditing and training*

20. Auditing is described in an introductory booklet put in evidence by the Church as “the central religious practice of Scientology”. The same source explains that it is “an exact form of spiritual counselling in which a Scientology minister applies the basic truths of the religion to the parishioner toward the complete rehabilitation of the human spirit”. The term derives from the Latin *audire*, meaning to listen. The auditor, or one who listens, is a qualified Scientology practitioner. Auditing takes various forms but, as the Supreme Court mentioned in *Hodkin*, the purpose of auditing is always to help the participant to free themselves from adverse material influences thereby enabling them to regain spiritual awareness.
21. In her evidence, Miss Cisco described auditing in terms of its spiritual and ethical purpose. She explained that the auditor’s role is to guide the session and to listen and take detailed notes, which are then stored in paper files at the London Church. Sessions are usually conducted in a small room with the auditor sitting behind a small table and the person being audited (or “pre-clear”) sitting opposite. The auditor asks questions and notes the responses. Sessions frequently involve the pre-clear recalling incidents believed to have occurred in earlier lifetimes. A device known as an “electropsychometer” or “e-meter” is used during auditing. In the Church’s literature this is referred to as a “religious artefact” and consists of two metal cylinders which are grasped by the pre-clear as they respond to questions put to them by their auditor. These cylinders are connected by wires to a dial measuring a very mild electrical current passed through the body during the session; the fluctuation of this current is measured by the e-meter and noted by the auditor.
22. Auditing also takes place in groups, when participants respond to questions or instructions from the auditor. Group auditing is a feature of Sunday services and also takes place at other times.
23. Although the Church’s witnesses emphasised the spiritual benefits of auditing, those called by the Valuation Officer described it in more secular terms. During his visits to the London Church Mr Cooper had participated in a group auditing session and observed an individual session (involving the instruction of a trainee auditor). He described his experience of the group session as “akin to mindfulness and not religious worship”. Dr Chryssides characterized auditing as “a form of mental counselling” and pointed out that it does not usually involve reference to a spiritual realm.
24. Some of the Church’s witnesses described auditing as a “religious service”, but none suggested it involved worship. Mr Hodkin confirmed that it did not and no reliance was

placed by Mr Glover KC on auditing as part of the Church's case that the London Church was a place of public religious worship.

25. "Training" is the study of L. Ron Hubbard's written and recorded works which form the scripture of Scientology. It takes place either as personal study, in libraries at the London Church and at the Information Centre, or by participation in formal courses and seminars in classrooms and meeting spaces in both buildings. When Mr Cooper was shown around the London Church by Miss Cisco she told him that 300 to 350 people study at the London Church each week.
26. Those who successfully complete a course of study as part of their training in Scientology are celebrated at graduation and testimony ceremonies held in the chapel at the London Church twice a week. These are not relied on by the Church as a form of public worship (although they are in principle open to the public, as well as to friends and family of those being celebrated).
27. Taken together auditing and training are understood by Scientologists to provide a spiritual path to higher awareness which they refer to as the 'Bridge to Total Freedom'. Mr Hodkin emphasised that neither auditing nor training was directed towards the achievement of personal spiritual development for its own sake. His evidence was that most Scientology training is concerned with learning to do things to help other people, and that by engaging in auditing "one removes those spiritual factors which are inhibiting one from being in good affinity and communication with others, and one comes to realise that one has responsibility for the welfare of others."

*Other uses of the Church's premises*

28. In addition to Sunday services, and twice weekly graduation and testimony ceremonies, the chapel at the London Church is also used for weddings, funerals, naming ceremonies and ordinations.
29. A great deal of space both at the London Church and at the Information Centre is given over to informing and educating visitors about Scientology. There are display areas, bookshops and many small cinema rooms where films of L. Ron Hubbard delivering lectures and talks on different subjects can be viewed. More than 500 films are available, in a variety of languages, and copies of these, and of Mr Hubbard's extensive writings and audio-recordings, can be purchased in the Church's book shops.
30. Both buildings also include rooms in which a personality test originally approved by Mr Hubbard and known as the "Oxford Capacity Analysis" can be taken. The personality test is often the first introduction to Scientology for visitors to the Church's buildings, and its availability is advertised prominently. The administration of personality tests is now one of the main activities at the Information Centre and since its occupation by the Church in the 1960s, passers-by who pause outside have often found themselves being invited into the building to take a test. There is no charge for the personality test but those who express further interest are likely to be invited to pay for Scientology literature and for access to introductory courses.

31. A further core Scientology practice which is relevant to our consideration of the use of the London Church is an activity known as the “Purification Rundown”. This is a 20-to-30-day programme which takes place in a Purification Area on the fourth floor of the building, equipped as a gym with exercise equipment, a sauna and associated changing rooms. Mr Calcioli was in charge of the Purification Rundown programme from 2007 to 2015. He explained that the programme is intended to help a person flush out the residue of toxins including drugs and alcohol from their body by exercising for five hours a day and taking nutritional supplements. Undertaking the Purification Rundown is said to put a Scientologist in a better condition to benefit from the study of Scientology scriptures, and those who complete the programme are celebrated at a graduation and testimony ceremony. Mr Calcioli confirmed that while the Purification Rundown was important, it was not in any sense a form of worship, and there was nothing sacred about the Purification Area itself; the same activities had been conducted from a nearby hotel gym when the area was being refitted.
32. Large parts of the London Church are used as offices for the Church’s ministers and staff, and for record keeping, administration, the design and printing of posters and publicity material, and the organisation of social programmes and “field activity” involving the distribution of educational material concerning drugs, human rights and moral education.
33. Finally, a prominent, comfortably equipped corner office on the third floor of the London Church is designated as Mr Hubbard’s office. Miss Cisco explained that a similar space is maintained as a mark of respect for the founder of Scientology in each of its Church buildings. It is not used as an office.

### **The subjects of the appeal**

34. The London Church is located in a former office building on the northern side of Queen Victoria Street in the City of London. It is about 150 metres south of St Paul’s Cathedral and the same distance to the north of the Thames. The building is Grade II listed and was originally constructed as the headquarters of the British and Foreign Bible Society in 1866. It was subsequently occupied by BP and is arranged over 6 floors totalling about 2700 m<sup>2</sup>.
35. The building’s imposing Portland stone façade features balconies and flagpoles which would not look out of place in the Vatican. Over the main entrance (which is fully glazed, affording a clear view of the interior) the words “Church of Scientology – London” are prominently displayed in gold lettering. Emblazoned on a large white shield above the name is the eight-pointed Scientology emblem, a star superimposed on a cross. Six display windows at ground level feature posters, film terminals and other publicity material. This is not a building trying to conceal its use.
36. The building was adapted for the Church at the time of its acquisition in 2006. Inside, the ground and lower ground floors contain a reception or lobby area, the chapel with adjacent refectory, stores, meeting rooms and offices. The chapel is a relatively small room, of only about 100 m<sup>2</sup>. Some of these offices have no natural light and the same is true of a large storage area behind the chapel, which is used for the storage of membership files. A prominent sign, visible from outside the building, points the way to the chapel.



37. Ascending the wide marble staircase, approximately a third of the first floor is configured as an information hall with displays of information about Scientology, its worldwide programmes and facilities and biographical details of Mr Hubbard. The remaining parts contain two classrooms or meeting rooms, three film rooms with theatre style seating, and two interviewing rooms.
38. The second floor is divided between offices and class and meeting rooms. As with the first floor these rooms are large enough to conduct group auditing sessions.
39. The third floor houses the library, an additional information hall, Mr Hubbard's office, a further auditing or meeting room and offices.
40. The fourth floor is partitioned into 20 small auditing rooms suitable for one-to-one sessions. In addition to a large waiting area there is a further auditing suite and administrative offices. The rear of the floor contains the Purification Area.
41. The fifth floor houses the Academy where auditors are trained and includes a large open plan space, with some small offices, classrooms of various sizes and a film room.
42. All floors are accessible by lifts and each has male and female toilet facilities. Bearing in mind that the works to convert the property for the use of the Church were carried out some 16 years ago, the other amenities that would be expected in a more modern building are notably absent. The provision of air conditioning is certainly not comprehensive and most of the data and power cabling is by means of perimeter trunking. The configuration of partitioning in several areas has led to an absence of natural light in many rooms.
43. The London Church is entered in the 2010 Rating List as Offices and Premises with a rateable value of £810,000.
44. The Information Centre is located just south of Goodge Street Underground Station on the western side of Tottenham Court Road. It is arranged on basement, ground floor and four upper levels. The ground floor is given over to an open plan information hall and bookshop, while the basement is laid out with desks or cubicles where the personality test is administered. The upper floors of the building contained seminar or meeting rooms and a number of small film rooms. In contrast to the ground floor and basement, which were very busy at the time of our visit, the upper floors of the building gave the impression of being underutilised. Before 2006 the Information Centre was the Church's sole Central London presence, but most of the Church services, auditing, training and educational activities of the Church are now carried on from the London Church.
45. The Information Centre is entered in the 2010 Rating List as Shop, Meeting Rooms, Interview Rooms, Offices and Premises with a rateable value of £112,000.

### **The exemption**

46. Section 51 and Schedule 5 of the 1988 Act introduce various exemptions from local non-domestic rating. Paragraph 11 of Schedule 5 relates to “places of religious worship etc.” and provides that:

(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 of Wales ... 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 purpose of the organisation responsible for the conduct of public 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 sub-paragraph (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 publication.

47. In his written argument Mr Glover KC helpfully took us through the evolution and enlargement of the exemption. It had applied originally only to churches of the Church of England but was expanded in 1833 to include all churches, meeting houses or premises exclusively appropriated to public religious worship and certified by law as such. Until 1955 the exemption applied to churches only but was widened in that year to include church halls, chapel halls and similar buildings. As originally enacted, sub-paragraph 11(2) of Schedule 5 to the 1988 Act extended the exemption to buildings used for ‘administrative or other activities’ relating to the organisation of the conduct of public religious worship in an exempt place. This provision was amended by the Local Government Finance Act 1992, which added sub-paragraphs 11(2)(b) and (3) so as to extend the exemption to buildings used by such an organisation as an office or for office purposes or ancillary to such use.

48. Mr Glover invited us to conclude that statutory policy over many years had been progressively to widen the types of buildings of religious organisations which qualify for exemption. He suggested that this was particularly relevant to the interpretation of sub-paragraph 11(2)(b), the exemption for offices, which was in very wide terms, limited only by the requirement that they be occupied by an organisation responsible for the conduct of public religious worship in a place falling within sub-paragraph (1)(a).

49. The 1988 Act may also have narrowed the exemption somewhat and the cases which pre-date it should be read with caution. It is no longer sufficient to show that some part of a

hereditament is used for an exempt purpose in order to secure exemption for its entirety. The exemption was reframed by the 1988 Act to apply only “to the extent that” the hereditament was used for the exempt purpose. Before that it had been understood that any such use, provided it was not trivial, would be sufficient to gain exemption for the whole hereditament. For example, in *Swansea City Council v Edwards* [1977] RA 209 (LT), a decision of the Lands Tribunal concerning a claim for exemption under section 39(2)(b) of the General Rate Act 1967 on the basis that a church social club was a church hall or similar building, it was said that: “Nothing contained in the section suggests that the use of the premises is required to be wholly, mainly, or even substantially for the purposes of the organisation”. That is no longer the case. As Lord Hope explained in *Gallagher v. Church of Jesus Christ of Latter-Day Saints* [2008] 1 WLR 1852, at [38]:

“The legislation is now qualified by the words “to the extent that”. Their effect is to require an apportionment to be made between those parts of the building that qualify for exemption and those which do not.”

Lord Hope went on to describe the circumstances in which an apportionment would be appropriate, at [39]:

“The words “to the extent that” which qualify para 11(2) would require an apportionment if a definable part of the building was occupied and used for these purposes. It need not be segregated from the rest of the building by walls or partitions, but it must be capable of being identified in the rating list for exemption as a separate hereditament. So long as this can be done, the question as to the method of apportionment is pre-eminently one for the valuation officer. No facts were put before the President to show that, in the case of any of these three buildings an apportionment would be appropriate. In this situation it will be sufficient if the building, albeit not exclusively, is nevertheless primarily occupied for a use which will qualify it for exemption under para 11(2)(a).”

It will therefore be necessary for us to consider the different parts of the two appeal hereditaments to identify their primary use.

#### *Public religious worship*

50. The fact that church premises may be registered under the Places of Worship Registration Act 1855 simply by being places of religious worship, yet to be exempt from rating, a building must additionally be a place of *public* religious worship has given rise to three significant cases to which we were referred. Two of these concerned the Mormon Church while the third concerned the Exclusive Brethren.
51. The decision of the House of Lords in *Church of Jesus Christ of Latter-Day Saints v. Henning* [1964] AC 420 concerned the Mormon Temple at Godstone (one of only two Mormon Temples in Europe). Unlike the much more numerous Mormon chapels, which were open to all members of the Church and to the public generally (and which were admittedly exempt from rating) the Temple was a special building which was accessible only to a restricted class of Mormons of good standing. About 5,000 people a year entered

the Temple, which was certified as a place of religious worship. The Lands Tribunal held that the Temple satisfied the requirement that it be a place of *public* religious worship and allowed the Church's claim for exemption, but the Court of Appeal reversed its decision.

52. The Church argued that "public worship" meant congregational worship as distinct from private or family devotion conducted in one's own home, but the House of Lords upheld the decision of the Court of Appeal and dismissed the claim for exemption. The leading speech was given by Lord Pearce who acknowledged that the Church's interpretation was a possible one, but rejected it, saying this, at 440:

"By the Act of 1833 the legislature was intending to extend the privileges of exemption enjoyed by the Anglican churches to similar places of worship belonging to other denominations. Since the Church of England worshipped with open doors and its worship was in that sense public, it is unlikely that the legislature intended by the word "public" some more subjective meaning which would embrace in the phrase "public religious worship" any congregational worship observed behind doors closed to the public.

I find it impossible, therefore, to hold that the words 'places of public religious worship' includes places which, though from the worshippers' point of view they were public as opposed to domestic, yet in the more ordinary sense were not public since the public was excluded."

53. The majority agreed. Lord Morris of Borth-y-Gest said, at 435:

"In my view the conception of public religious worship involves the coming together for corporate worship of a congregation or meeting or assembly of people, but I think that it further involves that the worship is in a place which is open to all properly disposed persons who wish to be present"

54. *Broxtowe v. Birch* [1983] 1 WLR 314 concerned the eligibility for exemption of two meeting halls occupied by the Exclusive Brethren, a Christian fellowship who worshipped privately behind closed doors. There was nothing about their meeting places to indicate that they were places of worship, but meetings were regularly attended by stable congregations of 250 or 300 people. Inquirers were told the place and time of meetings, and people outside the fellowship could attend. The issue once again was whether the halls were places of public religious worship.

55. The Court of Appeal agreed with the Lands Tribunal that the meeting halls were not exempt. Stephenson LJ described a spectrum running from the religious worship practised in the parish churches of the Church of England and in Roman Catholic and non-conformist churches at one end, to the private devotions of individuals in their homes at the other, and considered that the meeting halls of the Exclusive Brethren lay "near the borderline which divides the private from the public". While accepting that meetings were theoretically open to all "properly disposed persons" (as Lord Morris had put it in *Henning*) he identified what was missing, at 326D:

“A building on private property must somehow declare itself open to the public if activities which are carried on inside it are to be public, and the nature of those activities must be brought to the notice of the outside world if they are not to be private activities. As it was variously put from the Bench, the worship must be made public; the doors of the place of worship must be open not merely subjectively in the minds and hearts of the worshipping community but objectively in some manifestation of their intention that it should be open.”

He went on to describe how worship was to be made public and explained that satisfaction of the requirement did not depend on a church’s success in attracting non-members to attend, at 326E:

“Such signs may be given by the building itself. That the doors are really open to the public in fact and not only in theory may be indicated by numbers of people entering the building or of motor cars and cycles parking outside it. Many, if not most, churches and chapels indicate their nature and the nature of what goes on inside them by their style of architecture or religious symbols or the ringing of a bell, as well as by notices of services on a notice board, or in leaflets or newspapers, or by speakers preaching and appealing to the public in the open air or by house to house calls. There may be places of religious worship which without any of these attractions are in fact used for worship by members of the public at large. If there are such, they would qualify by the fact that their services were “performed in public”. On the other hand there may be places of religious worship advertised as such by some or all of the means I have enumerated, where nevertheless no member of the general public ever attends the services or meetings. Such a church or meeting hall also would qualify by being open to the public”.

56. At 326H Stephenson LJ described this as the “invitation” test.

57. Oliver LJ agreed, although neither he nor Slade LJ seem to have found the case as evenly balanced as Stephenson LJ had suggested. He distinguished between the willingness of the Brethren to welcome newcomers in principle, and their avoidance of anything which might be likely to attract the interest of others:

“... their method of conducting their affairs does, as it seems to me, have the practical effect that their meetings are in fact private and secret in the sense that there is no readily discernible way in which anyone not already a member of the Brethren would be likely to find out about them.”

He also referred to the “invitation” test at 331D, describing it as a “jury question” and “a question of fact and degree in each case and none the worse for that.”

58. The most recent of the cases to which we were referred was *Gallagher v. Church of Jesus Christ of Latter-Day Saints* [2008] 1 WLR 1852, in which the Mormon Church attempted unsuccessfully to reverse the effect of *Henning* on the grounds that it offended the Church’s rights under articles 9 and 14 of the European Convention on Human Rights,

scheduled to the Human Rights Act 1998. For our purposes the main interest in the appeal lies in what the House of Lords said about the exemption in favour of church halls and similar buildings in paragraph 11(1)(b), but we were also asked by Ms McCarthy KC to note that Lord Scott of Foscotte, at [51], considered that the justification for withholding the exemption where services take place behind closed doors, lay in the capacity of religion sometimes to be dangerously divisive:

“... secrecy in religious practices provides the soil in which suspicions and unfounded prejudices can take root and grow; openness in religious practices, on the other hand, can dispel suspicions and contradict prejudices.”

59. In summary, two complementary strands can be identified in the relevant cases. A place of religious worship will be a public place, entitled to exemption, if all “properly disposed persons” are eligible to enter and participate in the acts of worship being conducted there. But that test will not be satisfied simply by a theoretical disposition to welcome outsiders, and requires consideration of what the building itself, or the organisation, do at a practical level to invite those from outside the worshipping community to join in their worship. Beyond that, the question whether a building is a place of public religious worship is a question of fact.

*Church halls, chapel halls and similar buildings*

60. By sub-paragraph 11(1)(b) of Schedule 5, 1988 Act, a hereditament is also exempt to the extent that it consists of a church or chapel hall or similar building used in connection with a place of public religious worship and for the purposes of the organisation responsible for the conduct of public religious worship in that place.
61. Several examples of the application of this limb of the exemption were cited, concerning buildings of different denominations and illustrating the diversity of activities which may be conducted in such buildings without loss of the exemption. Of these, only *Gallagher* considers the statutory language as it appears in the 1988 Act, which now allows exemption “to the extent that” the hereditament is used for the exempt purpose. When *Gallagher* reached the House of Lords, Lord Hope noted, at [38], that the version of the legislation under consideration in one of the authorities relied on by the appellant was not qualified by the words “to the extent that” and that “it is no longer a reliable guide as to how buildings that contain distinct areas that are put to a variety of uses should be treated.”
62. *Gallagher* concerned the rateability of a Mormon Temple (not the London Temple considered in *Henning*) as well as other buildings on the same site including one known as the Stake Centre, which was used for church related meetings, sport and youth activities and scripture study classes, and contained a chapel, associated hall and ancillary rooms. The Lands Tribunal’s conclusion that the Stake Centre was in part a place of public religious worship in its own right and in part a chapel hall was not challenged on further appeal to the Court of Appeal.
63. The House of Lords agreed with the Tribunal and with the Court of Appeal that not only was the Temple not a place of public religious worship, but it also did not fall within sub-

paragraph 11(1)(b) as "a church hall, chapel hall or similar building used in connection with" a place of public worship, namely the Stake Centre.

64. At [32] Lord Hope pointed out that in *Henning* the Court of Appeal had decided that the Temple was not a church hall, chapel hall or similar building, because it was "a very sacred sanctuary". The Mormon Church challenged that decision, but at [33] Lord Hope said that it was not necessary to consider whether the Temple could be so described, because to be exempt a building had to be "used in connection with" a place of public worship. Those key words "colour the meaning of the entire paragraph" and have a well settled meaning in the context of exemption from non-domestic rating. Lord Hope referred to the House of Lords decision in *W & J B Eastwood v Herrod (VO)* [1971] AC 160, a case concerning an exemption for "buildings used solely in connection with agricultural operations" where, at 168D, Lord Reid had said that:

"Ordinary usage of the English language suggests that the buildings must be subsidiary or ancillary to the agricultural operations. Logically it may be that if A is connected with B, then B must be connected with A. But language is not always logical and I think it would be at least unusual to say of an ordinary farm that the agricultural land is used in connection with the buildings."

To members of the Mormon Church, its Temples are the most sacred places on earth and, given its importance, Lord Hope considered that it would be "a complete inversion of the facts" to describe the Temple as a building used in connection with the Stake Centre.

65. The Court of Appeal in *Gallagher* had also considered the status of a third building in the same complex, the Missionary Training Centre, used, as its name suggests, primarily for training Mormon missionaries. In that context Neuberger LJ approved, with one qualification, what had been said by the Lands Tribunal about the expression "a church hall, chapel hall or similar building", namely:

"without... attempting a complete definition, I think that in essence a church [hall] or chapel hall is a hall, often with other rooms and ancillary accommodation, which is used for functions and meetings by the congregation, and at times also by others, for the conduct of church business and sometime for wider community purposes that reflect the nature and purposes of the ecclesiastical body that is in occupation. It is not itself a place of worship."

66. Neuberger LJ's qualification of that "pretty satisfactory" formulation was that:

"... it may be a little too restrictive so far as the words which follow "wider community purposes" are concerned. The uses for which a church or chapel hall will, in many cases, be let out from time to time are pretty wide, and (probably) provided such uses do not positively conflict with those of the church or chapel, it seems to me that they would not prevent the use being consistent with that of a church or chapel hall."

However a church hall or chapel hall was defined, Neuberger LJ considered that it could not possibly include full time use as a centre for training missionaries. He also considered that the Missionary Training Centre could not fairly be said to be used "in connection with a place falling within paragraph 11(1)(a) above", "whether that "place" is limited to the Stake Centre (being the only place used for public worship on site) or any other place of public worship used as such by the Appellant".

67. *Gallagher* is the only authority which considers the exemption systematically and in its current form. The statutory language has evolved over time and, as the application of the exemption is a question of fact in each case, there is little to be gained from a close consideration of earlier examples at this level (and some risk of being led astray). Nevertheless, some points of general approach emerge from a few of the cases.
68. *Trustees of West London Methodist Missions v Holborn Borough Council* (1958) 3 RRC 86 (DC) dispels any suggestion that the exemption is concerned with the appearance or size of the building under consideration. It concerned a building on seven floors used for purposes including a youth club, small religious meetings, living accommodation for resident staff, a Sunday school, creche and a roof playground. Lord Goddard CJ thought that it was "quite obvious that it is a building which is akin to a church hall or chapel hall", despite being "architecturally ... not what one thinks of as a church hall" and "one of the biggest church halls one can imagine".
69. *Church of Christ Scientist v Westminster Corporation* (1958) 3 RRC 35 suggests that the proximity of the hall to the church is not an important consideration. It concerned a Christian Science reading room, comprising a bookshop for the sale of religious literature, a lending library, a reading room, a committee room and a librarian's room. It was common ground that the building was "used in connection with" the church despite them being separated in Westminster by some distance. It was also agreed that both secular activities and religious instruction could be expected to be provided in a church hall or similar building. The exemption was found to apply on the basis that the building "provides for an activity of a religious character required by the members of the church and is in fact largely used by them."
70. Finally, an example of a case on the opposite side of the line was the decision of the Lands Tribunal in *Gillett v North West London Communal Mikvah* (1982) RA 346, which concerned a Jewish ritual bath house. The Tribunal proceeded on the basis that, for a building to be regarded as similar to a church or chapel hall the activities carried on in it must bear some relationship to the activities usually associated with a church hall. The use of the hereditament exclusively for the purpose of ritual bathing bore no similarity to the use of a church or chapel hall: "If it has an affinity with any building it is with the synagogue itself, not with a church hall or chapel hall." The building was not exempt.

#### *Offices and office purposes*

71. The final limb of the exemption extends to so much of a hereditament as is occupied by an organisation responsible for the conduct of public religious worship in a place falling within sub-paragraph (1)(a) and which is used either (a) for carrying out administrative or



other activities relating to the organisation of the conduct of public religious worship in such a place; or (b) as an office or for office purposes, or for purposes ancillary to its use as an office or for office purposes.

72. The first of these uses (sub-paragraph 11(2)(a)) is not relied on in this case. In *Gallagher*, in the Court of Appeal, at [27] Neuberger LJ accepted as a “pretty good working reformulation” that it was concerned with “activities constituting ... "the necessary infrastructure for the delivery of public worship". An example might be the vestry or sacristy in an Anglican or Catholic church.
73. The second of the uses, as an office or for office purposes (sub-paragraph 11(2)(b) and (3)) is relied on by the Church but has not so far been the subject of consideration in any of the cases to which we were referred (it was not relied on in *Gallagher*, see *per* Lord Hope at [39]). The approach taken by the VTE was a restrictive one; at [103] the President suggested that the exemption covered office work other than in connection with the organisation of worship which was carried out “within a place of public religious worship”. The words ‘to the extent that’ used in sub-paragraph 11(2) indicated that the uses were all of space within a place used for worship. The President did not believe “it was ever Parliament’s intention that all offices of an organisation regardless of their location and what they are used for would be exempt from rates as offices on the basis that somewhere in the country there was a place of public religious worship.”

### **The VTE’s decision**

74. The VTE summarised its reasons for dismissing the appeals as being that none of the buildings contained a place of public religious worship, and that the legislation does not exempt offices, regardless of their location and use, on the basis that somewhere in England there is an exempt building occupied by the same organisation.
75. In her written argument Ms McCarthy KC placed some weight on the decision of the VTE and submitted that the burden of showing that the statutory tests for exemption are met and that the decision appealed against is wrong falls on the Church as appellant (referring to *Johnson (VO) v H&B Foods Ltd* [2013] UKUT 539 at [64]). She suggested that regard should be had to the findings and conclusions of the VTE, notwithstanding the *de novo* nature of the appeal.
76. That is all very well as far as it goes, but the appeal will be determined on the basis of the evidence which we have heard, which has been much more extensive than the evidence provided to the VTE. The President criticised much of the Church’s evidence as not coming from witnesses with first-hand knowledge of the London Church at the relevant time and as being unclear. We have had no such difficulty with the evidence tendered on the appeal.

### **The Church’s case**

77. The Church’s case for exemption relies on different elements of paragraph 11 for different areas.

a. The Chapel at the London Church is said to be exempt under paragraph 11(1)(a) as “a place of public religious worship which... is for the time being certified as required by law as a place of religious worship”.

b. All other spaces at the London Church and at the Information Centre which are used for the religious and social purposes of the Church, are exempt under paragraph 11(1)(b) because they are used in connection with the Chapel and are similar to a church or chapel hall.

c. Offices and filing spaces at the London Church and at the Information Centre are exempt under paragraph 11(2)(b) as offices occupied by an organisation (the Church) responsible for the conduct of public religious worship in the chapel and elsewhere.

### **The Valuation Officer’s case**

78. The VO’s case is that Church’s claims for exemption should fail, because:

a. The Chapel at the London Church is not a place of *public* religious worship as the services conducted there are not public.

b. The claims for exemption for the rest of the London Church, and all of the Information Centre, depend on the Chapel at the London Church being a place public religious worship, which it is not.

c. Even if the Chapel is a place of public religious worship, and exempt, the remainder of both hereditaments is still not exempt, because:

1. The areas for which exemption is sought under paragraph 11(1)(b), are not similar to a church hall, but are central to Scientology in function and very significant in scale. They cannot reasonably be considered to be ancillary to any public religious worship in the Chapel.

2. Auditing is the central practice of Scientology and not an administrative function, so the individual auditing rooms are not used as offices or for office purposes.

3. The use of other rooms for which exemption is sought under paragraph 11(2)(b) as offices, does not relate to the Church’s functions as an organisation responsible for the conduct of public religious worship.

79. Ms McCarthy KC made submissions on the approach which the Tribunal should adopt to statutory construction, emphasising the need to construe legislation purposively and to identify Parliament’s purpose from the legislation itself and not, for example, from antecedent legislation. Exemptions constitute an exception to a general rule and ought in principle to be construed strictly. None of those propositions were disputed.

## **Issue 1: Is the chapel a place of public religious worship?**

80. The chapel at the London Church is certified as a place of religious worship under the Places of Worship Registration Act 1855. Whether it is exempt therefore depends solely on whether the worship which is conducted there is public worship. The only worship relied on by the Church to satisfy this requirement is the weekly Sunday service.
81. The VO did not challenge the Church's case that Scientology is an outward looking, evangelising religion. In her evidence Ms Cisco explained that "the Church's entire emphasis is towards inviting the public into our premises, and to providing help and services to as many people as possible." That emphasis is clearest in the Church's endeavours to encourage passers-by to enter its buildings, to take its personality test, view its displays of information, purchase its literature and talk to its members about Scientology; when we visited the Information Centre we saw members of the public engaging in all of these activities.
82. The Church's openness to outsiders also extends to its Sunday Services, as Mr Cooper and a colleague discovered when they made a clandestine visit to the London Church one Sunday morning shortly before the hearing of the appeal (this under-cover approach caused some understandable offence when it was disclosed for the first time in Mr Cooper's witness statement). When Mr Cooper arrived early at the London Church he noticed a large poster in one of the display windows advertising Sunday worship and another inviting people into the building. When he returned closer to the time of the service two stands had been placed outside, one advertising the Sunday service, and the other offering free personality testing. When they entered the building, he and his colleague were offered information and the opportunity to take the test, but when they expressed interest in the Sunday service they were made welcome to it. While they waited, they were given a brief tour of the lower floors of the building where they saw other posters advertising the Service. After attending the service they were offered refreshment and a more extensive tour, during which they discussed the various Scientology courses available and how much they cost.
83. Despite Mr Cooper's experience, the VO's case remains that the Sunday Services do not involve public worship. That case is based on the contention that the Church fails the "invitation test" by making insufficient efforts to advertise its worship. The focus of Mr Cooper's evidence was on what the Church did, or did not, do in this regard, and what he considered to be its more energetic promotion of other activities. On the central issue he took a different view from his predecessor, Mr Hazel, who had originally formed the view that the Chapel was a place of public religious worship and that exemption was appropriate. That view was also taken in respect of Saint Hill, and it is a peculiarity of the VO's approach that a different conclusion appears now to have been drawn about the same activities being conducted in different locations. No real explanation was given for this inconsistency other than that the exemption for Saint Hill had been allowed on the basis of the information provided by the Church in 2014. What it is that is different about the information now available to Mr Cooper remains a mystery.

84. Although much of the evidence post-dated the material day (which is in 2013) Ms McCarthy KC submitted that there is a significant consistency in the Church's practices across the years. It was not suggested to any of the Church's witnesses that its approach to the public had changed and on that basis we can for the most part safely consider the evidence as a whole, without distinctions of time.
85. In her closing submissions Ms McCarthy KC listed the factors she relied on as demonstrating that the Church's services do not involve public worship.
86. She referred first to the appearance of the London Church building itself and to Mr Cooper's evidence that it looked like an office building and that he had difficulty locating it on his first visit. She also drew our attention to the President's suggestion that neither the structure itself, nor any of the permanent signs and symbols displayed on the front of the building would have told him, "or the man on the Clapham Omnibus, that this was the site of public religious worship". We have already described the appearance of the building (at paragraph 35 above) and while we agree that, architecturally, it could pass as a Victorian office building or even a hotel, we can only respectfully differ from the President on the impression that the words "Church of Scientology" emblazoned over the door would communicate to an open-minded observer. In ordinary usage a church is a place of public worship, whether in Clapham, the City of London or anywhere else, and in our judgment to identify a building as a church, of whatever denomination, is unmistakably to indicate that it is such a place.
87. There was evidence of a variety of notices, some permanent, some temporary, displayed outside the building. These included a permanent brass plaque with the appellant's full name (Church of Scientology Religious Education College Inc) on a column flanking the entrance, and a second plaque on the opposite column with the words "public place of worship" and "all welcome" together with the times of the Sunday service and the graduation and testimony services. It is common ground that the second plaque was not present at the material date and is a much more recent addition. We agree with Ms McCarthy KC that the original, more corporate plaque does not in itself convey any form of invitation, but someone who was close enough to read it would also be able to see through the glass doors a much larger permanent sign indicating the presence of the chapel itself, which would convey the same message as the word "Church" above the door.
88. The evidence also establishes that an A-board advertising the time of the Sunday service has almost always been placed outside the building for a period before the service begins and while it continues. On a Sunday morning Queen Victoria Street is not busy, and the chances of attracting a casual passer-by to join a service must be low. The sign is more likely to reassure someone who has already decided to attend the service but who had not previously visited the building that they had arrived at their intended destination and were welcome to come in.
89. The six display windows at ground floor level are used by the Church to publicise its presence, the availability of its personality tests and other activities, and generally to welcome and encourage visitors, but not specifically to advertise Sunday services. Although Church services, including the Sunday service, are listed on a weekly

programme of events poster, that particular poster is usually not on display (for example, Mr Cooper's assiduous study of Google's "Streetview" website detected it on only 3 of 13 occasions for which images were available). Ms Cisco said that whenever she noticed that the Sunday service was not being advertised, she would ask that a poster giving the time of services be displayed, and we accept that, but greater priority appears to be given by others to different activities.

90. Ms Cisco's evidence was that visitors to the London Church would usually go into the chapel and that, as Mr Calcioli confirmed, there was always a sign at the entrance to the chapel advertising the times of services. Similar signs were seen by Mr Cooper in the reception area and the information area on the first floor when he made his unannounced visit in 2022 and he had noticed hand bills or flyers with the same information on previous visits. Ms Cisco confirmed that thousands of members of the public attend the London Church each year either to visit or to take part in an introductory service.
91. The Church devotes resources to a substantial internet presence and social media advertising using Facebook and Eventbrite. Screenshots of the events page on its website on various dates in 2013 and 2014 showed that the Sunday service was clearly advertised at the material date, along with the message that all were welcome. The website also invited people to reserve a place by providing their name and contact details, and Mr Bennett explained that invitations to services would be sent by email to all those whose details were held by the Church. Mr Cooper suggested in his witness statement that advertisements for the Sunday services "lacked prominence" on the website's home page, but that he had always found the information when he had looked for it.
92. The Church's Facebook page was not generally used in 2013 as a medium for advertising Sunday services, but details were publicised on the Eventbrite site.
93. The Church had promoted poster campaigns in 2013 or 2014 at Blackfriars tube station and on the Tube, and advertisements on national television, but there was no suggestion that these specifically draw attention to Sunday services. Services are now carried on the Church's own television channel but this did not begin broadcasting until after the material date, nor did livestreaming of services occur until the 2020 coronavirus lockdown. Although these broadcasts, which are accessible to all, post-date the material time, they are indicative of the Church's general approach to sharing its congregational worship with the public.
94. Ms McCarthy KC also relied on the Church's relative lack of success in attracting members of the general public to its services. Each week a photographic record of the Sunday service was submitted to the Church's leaders at Saint Hill, and these included a record of the number of attendees. Sometimes the headcount separately recorded the number of non-Scientologists who were present. The largest number recorded on any one occasion was 10, out of a congregation of 40, but usually where a number was given it was only one or two of a congregation of fewer than 20. Mr Bennett, a Scientology minister and a member of the Church for 26 years, told us that he had led Sunday services at the London Church on numerous occasions, including in 2014, and he estimated that around 40% of the time he noticed people in attendance whom he did not recognise as

Scientologists. That estimate is not positively confirmed by the photographic record, which often does not refer to the presence of non-Scientologists, but nor is it inconsistent with that record. Mr Bennett was well placed to make the estimate by reason of his role and the small size of the congregation, and we have no reason to doubt it.

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.
96. For these reasons we are satisfied that the London Church is exempt to the extent that it comprises the chapel on the lower ground floor.

**Issue 2: To what extent are the London Church and the Information Centre used as an office or for office purposes?**

97. We take this issue next because it is more straightforward than the alternative basis of exemption (church hall or similar building). Once we have identified the extent to which space in both buildings is used as offices, or for office purposes, we will consider whether there is any other impediment to their exemption.
98. The issue is concerned with the use which was being made of different parts of the hereditaments at the material date. In making our assessment we have the benefit of having seen the various spaces in use immediately after the hearing, and it was not suggested that there had been any significant changes in use since the material date. Some parts of both buildings appeared not to be fully utilised, which may partly be attributable to the timing of our visit on a weekday morning, and partly to the popularity of home-working in the wake of the covid pandemic.
99. The picture is simplest in the case of the Information Centre. The only areas identified as offices in floor plans attached to the Church's statement of case were in the basement,

which is configured as a large open plan space with a small office at one end and three even smaller offices or storerooms at the other. From our inspection, these rooms are used in connection with the administration of personality tests and the general administration of the building. The small cupboards and toilet facilities on this floor can also properly be said to be used for purposes ancillary to the office use.

100. We were provided with two sets of floor plans for the London Church. We take the colour-coded version attached to the Church's statement of case as representing its case. The VO used a different floor plan, on which some rooms were numbered, and we will refer to those where appropriate.
101. As a preliminary point, we do not consider that the small rooms used for individual auditing sessions can appropriately be referred to as "offices", nor are they used for office purposes. The expression "used as an office or for office purposes" in paragraph 11(2)(b), when read together with the explanatory list of clerical tasks in paragraph 11(3) is not apt to describe a room which is used exclusively for one of the key religious practices of Scientology. The individual auditing suites are equipped in a uniform style, with a small table, two chairs, and usually a small cabinet. We did not notice telephones or computers in any of the rooms, and apart from a copy of the "auditor's code" or certificates showing the level to which the auditor using the room was qualified, we saw little or no material displayed on the walls. We accept that auditing sessions involve some clerical work and record keeping on the part of the auditor, but these rooms are used for a specific form of religious exercise and not as offices.
102. Nor can the much larger and less uniform classrooms and open spaces used for group auditing sensibly be described as "offices". They usually include some chairs and tables but are less consistent in their furnishings. They are not used for office or administrative work, and unlike the individual auditing rooms, exemption was not sought by the Church on the basis that they are offices.
103. The ground and lower ground floor of the London Church includes areas marked as offices which were clearly in use for that purpose at the time of our inspection and fall within paragraph 11(2)(b)). These areas appeared not to be used for activities relating to the organisation of the conduct of worship in the chapel, with the exception of the Chaplain's office immediately adjacent to the chapel (which is therefore additionally exempt under paragraph 11(2)(a)). An enclosed area at the rear of the chapel is used for the storage of files, which is an "office purpose" and so exempt.
104. The only spaces used as an office or for office purposes on the first floor are the President's office and the small room immediately adjoining it (marked "interview" on the Church's floor plan). The second, larger open plan "interview" space was equipped with the same sort of booths as we had seen in the personality testing area at the Information Centre and did not appear to be in administrative or office use.
105. With one exception, the rooms on the second floor identified on the Church's plan as offices (or in one case "interview") are all used as offices. They include one large open plan space equipped with office furniture, but which appeared unoccupied (number 1 on

the VO's plan and referred to by Ms Cisco as the "Public Division Office"), as well as the offices of named members of the Church's staff. Room number 7 on the VO's plan is not claimed by the Church either to be a place of worship or an office and is not exempt under paragraph 11(2). For the reasons we have already given, the small auditing room, between rooms 3 and 4 on the VO's plan, is also not an office.

106. Much of the third floor of the building is devoted to an open plan library and information hall, with two small film rooms and a classroom. None of these are offices. We accept that the handful of small cellular offices shown on the Church's coloured plan (which are for identified individuals) and the room used for filing records, are used for offices or office purposes and may be exempt. We do not agree that the room maintained as "Mr Hubbard's office" is "used as an office or for office purposes". A rope across the doorway prevents entry to the room and it is clearly not in use as a workspace; rather, it is used in the same way as a shrine or memorial might be said to be used, to encourage focus on the life and work of a revered figure and to provide a source of inspiration or encouragement to practitioners of the religion.
107. On the fourth floor the areas numbered 3, 4 and 5 on the VO's floor plan are used as offices or for the storage of files and may be exempt. The Purification Area is not claimed by the Church to be an office. The remainder of this floor is given over to individual auditing rooms, described on the Church's floor plan as "minister office", of which there are 20, and ancillary waiting areas and store cupboards. These are not used as offices.
108. The fifth floor of the building houses the "Academy", which Ms Cisco explained is the main auditor training area. Apart from three small offices for the director of training, an admin office and the estates office, exemption is not claimed for this floor as offices.
109. For the most part, therefore, and with the exception of the individual auditing rooms mainly clustered on the fourth floor, we accept that the areas identified on the Church's floor plans as offices are used as offices. But before we can be satisfied that these areas are exempt we must address the basis on which the VTE dismissed this part of the Church's case.

**Issue 3: To be exempt, must a space which is used as an office or for office purposes satisfy any additional condition?**

110. Paragraph 11(2) renders a hereditament exempt to the extent that it is occupied by an organisation responsible for the conduct of public religious worship in a place of public religious worship falling within sub-paragraph 11(1)(a) (i.e. belonging to the established church or registered as place for the conduct of public religious worship).
111. The VTE accepted a submission on behalf of the VO and held that the exemption does not apply to all offices "regardless of their location and use, on the basis that somewhere in England there is an exempt building occupied by the same organisation".
112. The essence of Ms McCarthy KC's submission was that the exemption for offices must be narrowly construed and that, to be exempt, an office must be used for a purpose which



is ancillary to the public religious worship conducted elsewhere in the building, or possibly another building. The requirement that an exempt area must be occupied by an organisation responsible for the conduct of public religious worship should be interpreted as meaning that the relevant body must occupy the office “as (or ‘qua’) an organisation responsible for the conduct of public religious worship”. This requirement, Ms McCarthy KC submitted, was not satisfied in the case of the Church because it was not occupying the offices in its capacity as an organisation responsible for the conduct of public religious worship, “but as an organisation whose principal activities are quite different, comprising individual and group auditing, training, and providing and selling Scientology related material.”

113. Ms McCarthy KC suggested that the purpose of the exemption was closely related to benefits which were seen as flowing specifically from acts of public worship, and that each limb should be interpreted in that light. The rationale for certain religious buildings being fully exempt from rating (as opposed to others where the ratepayer may be entitled only to proportionate relief as a charity concerned with the advancement of religion) was that public worship was regarded as being of real and specific benefit. In the Court of Appeal in *Henning*, Donovan LJ (at [1962] 1 WLR 1091, 1099) had explained the exemption on the grounds that places of worship “cater for, and are used by, and for the benefit of, a section of the public sufficiently large to be significant in this context”. In *Gallagher* Lord Scott had justified the exemption on the basis that “openness in religious practices, on the other hand, can dispel suspicions and contradict prejudices.”
114. It cannot have been intended, Ms McCarthy KC submitted, that office use alone would be sufficient to secure exemption for any organisation responsible for the organisation of public worship in any location. She suggested some strange anomalies would result from giving an unrestricted interpretation to the office exemption: could it possibly have been intended that the presence of a chapel in a hospital or on a military base would entitle the NHS or the armed forces to exemption from rating for all their offices? We think the answer to both these examples is likely to be that neither the NHS nor the armed forces are responsible for the conduct of worship in hospitals or military facilities, and they do not support Ms McCarthy KC’s suggestion that some implied limitation must be read into paragraph 11(2)(b) to avoid such unintended consequences.
115. The proper interpretation of the office exemption has not previously been the subject of specific consideration, and it was not relied on in respect of any of the buildings in *Gallagher*. In support of her argument Ms McCarthy KC nevertheless referred to an observation by Lord Hoffmann, in *Gallagher*, at [10], that the extensions of the exemption since *Henning* (which include both limbs of sub-paragraph 11(2)) “are dependent upon the central concept of ‘a place of public worship’”. We do not think that goes any further than to recognise that both added limbs require that the space be occupied by an organisation responsible for the conduct of public religious worship in a place of public religious worship falling within sub-paragraph 11(1)(a). Lord Hoffmann was not addressing any question of interpretation of the office exemption but was explaining why the House of Lords’ decision in *Henning* could not be departed from simply because the scope of the exemption had expanded since 1964.

116. Ms McCarthy KC also referred to what had been said by the Lands Tribunal in *Gallagher*, at [50], to the effect that:

“... the wording of the provision shows that it is relatively limited in its scope. It should not be regarded as an invitation to treat as exempt any building that is occupied by a church organisation and has some connection to worship in the church.”

But, as Ms McCarthy KC recognised, that observation was concerned only with the meaning of sub-paragraph 11(2)(a), which is specific and connected to particular activities. Exemption was not being claimed for any of the buildings under consideration on the grounds that they were used as offices or for office purposes. The only reference to sub-paragraph 11(2)(b) was at [55], where the President considered whether a family history centre used by individual Church members to research their ancestry could be said to be used for office purposes (a proposition which had not been argued). He concluded that, on balance, “this work, being carried out for their own purposes by individual Church members and members of the public, is not properly to be regarded as clerical work within the meaning of the provision.”

117. Reading the exemption as a whole, we are struck by the contrast between the original language, covering activities confined by the requirement that they must relate to the “organisation of the conduct of public religious worship in such a place”, and the apparently unrestricted addition of space “used as an office or for office purposes”. The very close connection between original activities and a place of public worship which Ms McCarthy KC invited us to find in both limbs is clearly present in the original version (now sub-paragraph (2)(a)) but entirely missing from sub-paragraph (2)(b) with which we are concerned.
118. Language apt to describe the suggested ancillary or subsidiary relationship was readily available. If the intention had been to widen the exemption only to the extent suggested it is hard to see why the original text was not simply edited to omit “the organisation of”, leaving an exemption for administrative or other activities relating to the conduct of public worship in a certified place. The drafter did not follow that route but instead omitted any description of the purpose of the office use. That can only have been with the deliberate intention of dispensing with the need for any connection between the exempt activity and the conduct of public religious worship other than through the identity of the occupier.
119. We are also struck by the difficulty Ms McCarthy KC had in formulating and explaining her suggested restriction. Whether undertaking any particular administrative task would amount to occupation of an office “as (or ‘qua’) an organisation responsible for the conduct of public religious worship” seems to us to be an impossibly vague question inviting uncertain and inconsistent application.
120. There is clearly no need for the premises used as offices to be part of the same hereditament as the place in which public worship occurs. That is not suggested by the language of paragraph 11(2), and would add a requirement which does not apply to church halls, restricting the exemption very significantly for no obvious reason. There are likely

to be many places of public worship in connection with which administrative tasks are conducted in a separate location. Exemption may be claimed for a hereditament no part of which is used for public worship, provided the relevant limb of sub-paragraph (2) is satisfied.

121. We therefore agree with Mr Glover KC's submission on behalf of the Church, and respectfully disagree with the VTE on this issue. Use as an office or for office purposes, provided it is use 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 worship.
122. On that basis we are satisfied that the spaces we have identified above as being used as offices or for office purposes are exempt.

**Issue 4: To what extent are the Information Centre and the London Church exempt under paragraph 11(1)(b)?**

123. Whether the exemption under paragraph 11(1)(b) is read as a whole or divided (so far as possible) into its components does not seem to us to be of much significance. In any case, to be exempt, part of a hereditament: must consist of a church hall, chapel hall or similar building; must be used in connection with a place of public religious worship; and must be used for the purposes of the organisation responsible for the conduct of the public worship in that place. Additionally, as Lord Hope explained in *Gallagher* at [39], the place in question should be occupied primarily, though not exclusively, for the qualifying use.
124. There was no dispute in respect of either hereditament that it was used for the purposes of the Church; the Church is also responsible for the conduct of public worship in at least one place (the London Church and, subject to the VO's unexplained second thoughts, Saint Hill). The VO disputed both that any part of either hereditament could be said to be a church hall or similar building, and that any part was used "in connection with" a place of public religious worship (even accepting that the Chapel at the London Church was such a place).
125. In *Gallagher* the Court of Appeal was prepared to adopt, as a "pretty satisfactory" description of a church hall that it was "a hall, often with other rooms and ancillary accommodation, which is used for functions and meetings by the congregation, and at times also by others, for the conduct of church business and sometime for wider community purposes". Whether a building is, or is similar to, a church or chapel hall is a functional question rather than one dependent on its appearance. The focus is on what the space is primarily used for.
126. In the context of an exemption which is intended to be available to all denominations, it is appropriate to consider usage of space in fairly general terms and to ask whether the activity for which the space is used is the sort of activity one would expect to find in a church hall or other social or community space associated with a place of worship. The

range of activities sheltered by the exemption is therefore likely to be “pretty wide” or “multifarious” (expressions used by Neuberger LJ in *Gallagher*). They are likely to include private reading and the study of religious texts in a library or reading area, discussion groups, one to one or group tuition related to the Church’s teachings, meetings of members of the congregation for purely social or secular purposes such as dances or film clubs, public meetings or social activities unconnected to the Church itself, the preparation and service of food, sports and recreational activities, and meetings of organised groups such as youth clubs. None of these activities would be out of place in a church hall or similar building.

127. A church hall is not a place of worship, but that does not exclude its use, in part, for prayer groups, individual spiritual direction, or other religious activities. We do not think it is either practical or desirable (and therefore cannot have been intended by Parliament) that a valuation officer should be required to inquire too closely into the spiritual significance or religious motivation for a particular activity. As Neuberger LJ put it in *Gallagher*, at [31], the “perspective must be external, objective and analytical, not internal, subjective or holistic”.
128. A case in point is the Purification area on the fourth floor of the London Church. Many church halls are used for exercise classes, which may involve the use of equipment; some will include dedicated changing areas and possibly showers; few are likely to include a sauna. We do not think that the fact that Scientologists encourage participation in the Purification Rundown as a desirable introduction to a course of religious study, means that the area used for that exercise programme should be treated differently from part of a conventional church hall used regularly for yoga or Zumba classes. Nor do we consider the presence of a sauna (which would not be likely to be found in a conventional church hall) means that the Purification area cannot be exempt. What might be expected of a church hall or similar building cannot be assessed by reference to the practices of a particular denomination; in 1955 the original drafters of the church hall exemption no doubt had the established churches in mind, but as *Hodkin* demonstrates, that model is not a reliable guide to the meaning of the exemption in the twenty-first century.
129. Adopting the required broad approach, we find, with two exceptions, that all of the spaces for which exemption is claimed under paragraph 11(1)(b), in both locations, consist of a church hall or similar building: spaces used for private study or for group religious instruction, mentoring or spiritual direction; spaces used for imparting information about a religion through displays, films, or books; spaces used for introductory activities, including self-awareness exercises or “personality tests”; spaces used for social activities, including serving and preparing food; spaces used for exercise classes; none of these would be out of place in a church hall or similar building. Nor are the buildings used for other purposes which might make it inappropriate to describe them as a church hall or similar building.
130. The first exception to this assessment is the fifth floor of the London Church, which houses the Academy for the training of new auditors. We include in this category the areas numbered 88, 89, 90 and 91 which are used as classrooms and a film room and which we understood to be part of the premises devoted to the Academy. Like the Missionary Training Centre in *Gallagher*, this is a space devoted to the training of new practitioners

in some of the Church's core religious practices. They may go on to practice their new skills at the London Church, or at other Scientology churches, or as freelance auditors. It was not suggested that this area was also used for other purposes and we do not consider it analogous to a church hall or similar building. Its use is an institutional rather than a community use and it is not exempt.

131. The second exception is Mr Hubbard's office, for which exemption was claimed in the alternative under paragraphs 11(1)(b) and 11(2)(b). We have described it above as a place of reverence akin to a shrine. It is not used for any of the sort of activities falling within the Court of Appeal's "pretty satisfactory" description of a church hall in *Gallagher* and we do not consider that its maintenance as a focus of encouragement or inspiration enables it to be described as similar to a church or chapel hall.
132. We understood that in respect of the individual auditing rooms on the fourth floor of the London Church for which exemption was claimed under paragraph 11(2)(b), exemption was not claimed, in the alternative, on the basis that those rooms were used for activities one would find going on in a church hall. This concession was less clear in the closing written submissions provided on behalf of the Church so we should explain why we consider it was justified. The significance of auditing as a religious practice, the exclusive use which is made of the individual auditing rooms, and their large number, all set them apart from uses which might be made of a church hall or similar building. They are not spaces used from time to time for individual spiritual consultation or support, and at other times for other purposes; they comprise almost half a floor, set apart and marked out for a specific and distinctive religious purpose of particular significance to Scientologists. That part of the building cannot be described as a church hall or similar.
133. We therefore make a distinction between rooms used for individual auditing and the much larger spaces used for group auditing, which are also used for classes and seminars and which are no different from the meeting rooms and spaces for group activities in any church hall.
134. Ms McCarthy KC's main submission was that the space for which exemption was claimed under paragraph 11(1)(b) was not used "in connection with" a place of public religious worship. Satisfaction of this requirement could not be achieved unless the uses of the exempt parts of the hereditament were subsidiary or ancillary to the use of some other place as a place of public religious worship, as Lord Reid had explained in *W & J B Eastwood v Herrod (VO)* in the context of buildings used solely "in connection with agricultural operations". The main uses of the upper floors of the London Church were for auditing and training, neither of which could be said to be ancillary to public worship.
135. The authority relied on by Ms McCarthy KC in support of this aspect of her case was *Gallagher* in which the Temple (the most sacred place in the Mormon religion) was found not to be used "in connection with" the Stake Centre (which was both a place of public worship and a meeting place and social centre qualifying for exemption under paragraph 11(1)(a) and (b)). It was in that context that Lord Hope had said it would be "a complete inversion of the facts" to describe the Temple as a building used in connection with the Stake Centre; Lord Hoffmann suggested it would be "having the tail wag the dog".

136. In *W & J B Eastwood v Herrod (VO)* Lord Reid had said, at p.168, that the requirement for one use to be ancillary to another should be “interpreted in a reasonably liberal manner”. We are nevertheless invited by Ms McCarthy KC to find that, to Scientologists, attendance at public congregational services is a relatively insignificant component of their religious practice, that auditing and training are far more important, and that in consequence, space used for auditing and training is not used in connection with space used in connection with public worship. That involves a much more difficult assessment than was required in *Gallagher*, where in Mormon theology the Temple was indisputably the most sacred place on earth. It is also a very different exercise from deciding on the use being made of an agricultural building (the sort of hereditament Lord Reid was considering).
137. There is no doubt that attendance at Sunday and other congregational services in the chapel at the London Church was very important to Ms Cisco, who was the main witness through whom the Church explained its practices. We are confident she was not simply expressing a personal preference, as the introductory booklet we were shown described the Sunday service as “the focal point of a united religious community”. Mr Hodkin also explained that when congregational services are about to begin other activities in the building are paused to encourage participants to attend the service. The Sunday service and the graduation and testimony services which are the culmination of the different courses of training, are the Church’s only regular congregational activity, and it certainly appears to be the case that Scientology places less emphasis on congregational worship than other religions. It is not a sacramental religion, and only one witness suggested that the chapel was, to him, a sacred space, but that does not mean that it is unimportant. It is in the chapel, for example, that weddings, naming ceremonies and the ordination of ministers take place.
138. Ms McCarthy KC drew attention to features of the way in which the London Church is used which she suggested were relevant to the church hall exemption. One was the fact that individual auditing and attendance at training courses generally attract a fee. Another was that the public was not permitted to have access to the upper floors of the building without being accompanied. These both represented a “barrier to public access” which, Ms McCarthy KC submitted, was a requirement of the church hall exemption.
139. We do not agree that public access is a condition of exemption for church halls and similar buildings. The only relevant requirement is that the church hall or similar must be used in connection with a place of public worship. Some religious denominations sadly find it necessary, for reasons of security, to protect themselves and access to their premises with quite extensive security measures (Ms Cisco gave evidence of hostility she had experienced when carrying out her functions as a minister). Unrestricted access is not a necessary characteristic of a church hall. As for payment, participation in many activities carried on in church halls is likely to require payment, especially where the activity is social or involves a regular group which might charge a subscription. All churches require money to carry on their activities and most look to their members to make a financial contribution. The availability of the exemption cannot depend on distinctions in the way different churches collect funds from their members.

140. Ms McCarthy KC also relied on the relative imbalance between the numbers attending Sunday Services at the London Church (rarely more than 20) and the number attending the building for auditing or training sessions during the rest of the week (around 350). The striking divergence in size between the chapel and the London Church as a whole was also identified as relevant to a consideration of which space was used “in connection with” the other. We do not agree that these features are of particular significance. The impression we were given was that attendance at the regular graduation and testimony services in the Chapel was larger than at the Sunday service. The London Church is not in a residential neighbourhood and we draw no relevant conclusion from the fact that very few of those who attend courses during the week choose to return for services in the same building at the weekend. Nor do we think that the availability of the exemption can depend on the relative size of spaces used for different purposes.
141. We therefore have no difficulty in accepting that the refectory and meeting areas immediately outside the Chapel at the London Church are used in connection with the chapel itself. The information halls, film rooms, classrooms and meeting rooms on the first, second and third floors, and the Purification area on the fourth floor, are also sufficiently connected to the chapel by proximity, participation and function to be exempt. These are the spaces where members of the public are introduced to the religion, where Scientology courses and training are run and where group auditing takes place. We are satisfied on the evidence that those who use these spaces are encouraged to attend the congregational services and that the graduation and testimony ceremonies which take place in the chapel at the end of these courses (including after the Purification Rundown) are an important part of the Scientology liturgy. Ms McCarthy KC submitted that the relative significance of the different activities going on in the London Church meant that the chapel was used in connection with the meeting rooms and classrooms, and not vice versa, but we reject that view of the evidence.
142. For the same reasons as we found that the Academy housed on the fifth floor of the London Church was not akin to a church hall, we also consider that it lacks the required connection to the chapel.
143. The Information Centre has a very different purpose from the London Church. It is the display window of a worldwide religion, where the whole emphasis is on interesting new members of the public in Scientology. It was explained that those who express interest are then referred either to Saint Hill or to the London Church to be enrolled on training courses and continue their exploration of Scientology. Although it is registered as a place of religious worship exemption is not claimed for the Information Centre under paragraph 11(1)(a). The impression we were given was that, since the opening of the London Church, it had become very rare for services to be conducted there at all. Even allowing for the time of day, the upper floors of the building appeared on our inspection to be largely unused, or at least distinctly under-used, and the activity we witnessed was all in the ground floor book shop and information hall and the basement testing area. We do not consider that the Information Centre provides a facility for the Church’s congregations at the London Church or at Saint Hill, and it lacks any real connection to the places of public worship in either of those locations. All three buildings are occupied by the same organisation, but the requirement of use in connection with a place of public worship is

an additional condition which must involve more than common occupation. We are satisfied that no part of the Information Centre is exempt under paragraph 11(1)(b).

## Summary

144. We summarise our conclusions by reference to the Church's floor plan, as follows:

### At the London Church

Ground floor - the Chapel is exempt under paragraph 11(1)(a); the lobby, meeting area and refectory are exempt under paragraph 11(1)(b); the offices and filing room are exempt under paragraph 11(2)(b).

First floor – the hall, information hall, classrooms, film rooms and larger interview room are exempt under paragraph 11(1)(b); the President's office suite is exempt under paragraph 11(2)(b).

Second floor – all of the administrative offices are exempt under paragraph 11(2)(b); the remainder of the floor is exempt under paragraph 11(1)(b).

Third floor – Mr Hubbard's office is not exempt; the administrative offices are exempt under paragraph 11(2)(b); the remainder of the floor is exempt under paragraph 11(1)(b).

Fourth floor - the administrative offices are exempt under paragraph 11(2)(b); the Purification area is exempt under paragraph 11(1)(b); the remainder of the floor comprising the individual auditing suite is not exempt.

Fifth floor – three small administrative offices are exempt under paragraph 11(2)(b); the Academy occupying the remainder of the floor is not exempt.

### At the Information Centre

The self-contained offices and storage spaces at either end of the basement are exempt under paragraph 11(2)(b); the remainder of the building is not exempt.

145. The identification of the material day and the effective date were not agreed. The position of the Church is that both the material day and the effective date are 18 December 2013 (the date on which the chapel at the London Church was registered as a place of religious worship). We assume that with the benefit of our decision on other issues the parties will now be able to reach a consensus on those matters.

146. The appeal is therefore allowed to the extent we have indicated. As a result, the rateable values of both hereditaments will be reduced. We heard no valuation evidence and there seemed to be no dispute over the appropriate rate at which the hereditaments ought to be



valued. If the parties are unable to agree the reduced rateable value for both hereditaments they may apply for further directions.

Martin Rodger KC  
Deputy Chamber President

Mark Higgin FRICS  
Member

5 January 2023

**Right of appeal**

Any party has a right of appeal to the Court of Appeal on any point of law arising from this decision. The right of appeal may be exercised only with permission. An application for permission to appeal to the Court of Appeal must be sent or delivered to the Tribunal so that it is received within 1 month after the date on which this decision is sent to the parties (unless an application for costs is made within 14 days of the decision being sent to the parties, in which case an application for permission to appeal must be made within 1 month of the date on which the Tribunal's decision on costs is sent to the parties). An application for permission to appeal must identify the decision of the Tribunal to which it relates, identify the alleged error or errors of law in the decision, and state the result the party making the application is seeking. If the Tribunal refuses permission to appeal a further application may then be made to the Court of Appeal for permission.