

Tom is a famous actor and a follower of the teachings of Old Mother Hubbard, a self-proclaimed prophetess, who claimed that she would give birth to the returning Jesus Christ, but died, without doing so, in 1985. Tom establishes the following trusts:

- a) £1 million to hold an annual public ceremony to commemorate the death of Old Mother Hubbard, to sing hymns in her praise and pray to her;
- b) £5 million to open a school for the children of followers of Old Mother Hubbard, where they will be educated according to her teachings;
- c) £6 million to provide housing for poor and needy followers of Old Mother Hubbard and
- d) £10 million to open a public park in memory, where young people can play sports.

Advise Tom.

### Suggested Answer

a) Worship and ceremonies seem an essential part of religion: *United Grand Lodge v Holborn*. Public access to the ceremonies is also required as part of public benefit: *Re Hetherington*. Small 'cults', which the court might consider foolish, are still charitable, if they meet the definition, as long as they are not 'immoral': *Thornton v Howe*. According to the case law, religion requires the belief in a god or Supreme Being: *Re South Place Ethical Society*. Despite section 3(2) of the Charities Act 2011 widening the definition of religion to include belief in more than one god or no god at all, the Charity Commission still looks for some kind of Supreme Being in a religion. This has been doubted in *R (Hodkin) v Registrar General*, but there has not yet been a charity case about this. Unless Old Mother Hubbard is considered to be a god, which seems unlikely, this is not a charity for the advancement of religion.

b) Education would include schools and teaching: the 1601 Preamble and *Re Shaw 1952*. However the courts feel free to decide upon the value of the teaching provided and whether it is worthwhile or not: *Re Pinion*. Expert evidence may be taken and the courts dislike anything that smacks of propaganda: *Re Shaw 1957*. There is also a problem with the public benefit requirement as the education is not available to the general public. This contravenes the personal nexus principle, as explained in *Oppenheim v Tobacco Securities*.

c) The relief of poverty is a primary purpose of charity and housing can be provided, as long as it is being provided for the genuinely poor. A hostel for working men was acceptable in *Re Niyazi*, but "dwellings for the working classes" was not in *Re Sanders*, as the working classes are not necessarily poor people.. The normal public benefit principle, that the charitable service should be available to the general public does not apply to poverty charities. Poverty relief can be restricted to poor employees, according to *Dingle v Turner* and the personal nexus rule in *Oppenheim v Tobacco Securities* does not apply to this category of charity. This exception for poverty charities was confirmed in *Attorney-General v Charity Commission*.

d) Sport in itself is not charitable, because of doubts about whether it is a worthwhile activity and whether it benefits anyone else other than the sportsmen: *Re Nottage*. Combined with education (*Re Mariette*) or aimed at the young (*IRC v Mc Mullen*), sport is acceptable as an educational charity. Public parks are charitable if they are open to all: *Re Hadden* and section 5 of the Charities Act 2011. Although this park is in memory of Old Mother Hubbard, it appears to be open to all, not just Hubbardians.