



[2021] UKFTT 308 (TC)

TC08250

VAT – exemption - membership – whether aims of a philosophical, philanthropic or civic nature - Article 132(1)(l) VAT Directive EU principle of fiscal neutrality - appeal dismissed

**FIRST-TIER TRIBUNAL
TAX CHAMBER**

Appeal number: TC/2014/04356

BETWEEN

UNITED GRAND LODGE OF ENGLAND

Appellant

-and-

**THE COMMISSIONERS FOR
HER MAJESTY’S REVENUE AND CUSTOMS**

Respondents

TRIBUNAL: JUDGE GREG SINFIELD

The hearing took place on 17, 18, 19 and 22 March 2021.

Mr Owain Thomas QC, instructed by KPMG LLP for the Appellant

Howard Watkinson, counsel, instructed by the General Counsel and Solicitor to HM Revenue and Customs, for the Respondents.

With the consent of the parties, the form of the hearing was V (video) using the Tribunal video hearing service. It was attended remotely by counsel and representatives of the Appellant and Respondents.

I was provided a hearing bundle (748 pages) which included two skeleton arguments, a supplementary bundle (87 pages), an authorities bundle (472 pages) and website materials (22 pages), all in electronic form (PDF), and five books and a booklet in hard copy

Prior notice of the video hearing had been published on the gov.uk website, with information about how representatives of the media or members of the public could apply to join the hearing remotely in order to observe the proceedings. As such, the hearing was held in public.

DECISION

INTRODUCTION

1. The Appellant, United Grand Lodge of England ('UGLE'), is the governing body for the majority of Freemasons in England and Wales. There are other forms of Freemasonry whose practitioners do not belong to UGLE. In this decision, references to 'Freemason' are to a member of a Freemasons' Lodge recognized by UGLE and associated expressions are used similarly.

2. In 2014 and 2018, UGLE made two claims for repayment of VAT accounted for by UGLE in VAT periods 06/10 – 03/18. The VAT had been charged by UGLE on membership fees charged by UGLE to Freemasons. The total amount claimed was £2.83 million.

3. The basis of UGLE's claim for repayment was that, in the period April 2010 to March 2018, its supplies to its members were exempt under Article 132(1)(l) of Council Directive 2006/112/EC ('Principal VAT Directive' or 'PVD') and Item 1(e) of Group 9 of Schedule 9 to the VAT Act 1994 ('VATA94') because its main aims were of a philosophical, philanthropic or civic nature.

4. The Respondents ('HMRC') rejected the claims on the ground that the supplies to members were properly taxable. UGLE now appeals to the First-tier Tribunal ('FTT') against HMRC's refusal to pay the amount claimed.

5. At the hearing of this appeal, Mr Howard Watkinson, who appeared for HMRC, accepted that, during the relevant period, UGLE's aims included aims of a philosophical, philanthropic and civic nature. He contended, however, that those aims did not exempt UGLE's services to its members because:

- (1) the aims were not UGLE's sole main aim or aims; and, even if they were,
- (2) the aims were not in the public domain.

6. Mr Owain Thomas QC, who appeared for UGLE, submitted that, throughout the relevant period:

- (1) UGLE's sole main aim was philosophical in nature; or, in the alternative,
- (2) UGLE's main aims, taken together, were of a philosophical, philanthropic or civic nature and it did not have any other main aims.

7. The only issue in the appeal is whether, between June 2010 and March 2018, UGLE had aims of a philosophical, philanthropic or civic nature which were, separately or together, its main aim or aims.

8. For reasons set out below, I have concluded that UGLE's supplies to its members were not exempt and, accordingly, its appeal is dismissed.

PROCEDURAL BACKGROUND TO THE APPEAL

9. If the name of the appellant and the brief outline of the facts and issues above seem familiar to the reader, that is because this is not the first time that the FTT has considered whether UGLE has aims of a philosophical, philanthropic or civic nature.

10. In 2013, UGLE appealed against an earlier decision of HMRC that supplies made by UGLE in return for membership fees were not exempt. That appeal concerned VAT accounted for by UGLE in the period 1973 to 1996 and, like the present appeal, turned on whether UGLE had aims of a philosophical, philanthropic or civic nature.

11. In *United Grand Lodge of England v HMRC* [2014] UKFTT 164 (TC) ('UGLE No 1'), the FTT set out various findings and dismissed the appeal. The FTT found that the aims of

UGLE included aims of a philosophical nature (see [143]); not all of UGLE's promotion of charitable giving could be treated as having a philanthropic aim (see [156]); and only a small part, at most, of UGLE's aims were civic in nature (see [163]). The FTT also found, in [165] and [166], that the aims of Freemasonry were not limited to philosophic, philanthropic and civic aims but also included social aims, self-improvement and, in some part, the promotion of Masonic ritual and ceremony. In [167] – [172], the FTT found that, in the period before 2000, UGLE's other aims were aims in themselves and were not simply insignificant or ancillary to the qualifying aims of a philosophical, philanthropic or civic nature. The FTT concluded, in [174], that:

“... UGLE had a variety of different aims, some of which came within Article 132 and some of which did not. In our opinion, the aims which did not fall within the exemption were not insignificant and were of sufficient magnitude to cause UGLE to fall outside the words of the exemption in Article 132. Accordingly we dismiss the appeal.”

12. Although the earlier appeal concerned the period 1973 to 1996, the FTT heard some evidence relating to later years and commented in various places in the decision that there appeared to have been some change since 2000. For example, the FTT observed, at [57], that

“... the practice of Freemasonry has changed in particular since 2000, and since then has become more involved in charitable work among those, and for the benefit of those, who are not Freemasons or their dependents (sic).”

13. Having made certain findings about UGLE's aims, the FTT found at [113]:

“113. There were indications that the relative importance of these aims may have changed over the period from 1977 to the present day. The promotion of charity towards all (rather than mainly those with Masonic connections) may have become (sic) more pronounced after 2000 (at least in the sense of greater public 'outreach', and the preservation of cohesion and mutual fellowship through ceremony and secrecy less so.”

14. In [144], the FTT commented:

“144. Whilst greater emphasis may have been placed on the charitable aspect of its philosophy in recent years we detected no change in the relative importance of UGLE's aim of promoting the teachings of Freemasonry over the period since 1977. If anything it had been displaced somewhat by the aim of promoting charitable actions.”

15. The FTT concluded, in [156], that not all of UGLE's promotion of charitable giving could be treated as having a philanthropic aim but then commented in [157]:

“157. It seemed to us that this was an area in which the evidence suggested there had been a change since the turn of the century. There was evidence that the Welfare State had to some extent taken the place of Masonic provision; this and the reorganisation of the charitable and benevolent funds, and the move towards an outward looking body of persons serving their communities suggested to us that the proportion of self interest may have declined since that time.”

16. Before setting out its conclusion at [174], the FTT stated at [173] of the 2014 Decision:

“173. In the period after 2000 there was evidence that Freemasonry became more outward looking. We have described the evidence which indicated that Freemasonry was more open and willing to communicate its practices to the world at large and to reach out into the communities in a way it had not done before. But the evidence did not satisfy us that the aims of the encouragement

of fraternity, self-improvement and mutual care had become merely incidental or ancillary to the philanthropic, philosophical and civic aims of UGLE.”

17. The FTT’s decision in *UGLE No 1* was upheld by the Upper Tribunal in [2015] UKUT 589 (*‘UGLE UT’*). In *UGLE UT*, Asplin J (as she then was) held that the FTT had been entitled, on the evidence, to reach the conclusion that the aims which fell outside the categories of exemption were not ancillary or subordinate to the qualifying aims but were of “sufficient magnitude” to cause UGLE to fall outside the exemption altogether.

18. Encouraged by the comments of the FTT in *UGLE No 1* that Freemasonry had changed since 2000, UGLE made the claims which are the subject of this appeal. The basis of the claims and grounds of appeal are exactly the same as in *UGLE No 1* but concern a different period and rely on different evidence (although some remains the same). UGLE now seeks to show that, in the period April 2010 to March 2018, its activities became even more focused on community projects for the benefit of the community at large.

LEGISLATION

19. Article 132(1) PVD materially provides as follows:

“Exemptions for certain activities in the public interest

Article 132

1. Member States shall exempt the following transactions:

...

(l) the supply of services, and the supply of goods closely linked thereto, to their members in their common interest in return for a subscription fixed in accordance with their rules by non-profit-making organisations with aims of a political, trade-union, religious, patriotic, philosophical, philanthropic or civic nature provided that this exemption is not likely to cause distortion of competition;

...

(o) the supply of services and goods, by organisations whose activities are exempt pursuant to points ... (l), ... in connection with fund-raising events organised exclusively for their own benefit, provided that exemption is not likely to cause distortion of competition;”

20. Throughout the relevant period, the exemption was implemented in the United Kingdom by section 31 and Item 1(e) of Group 9 of Schedule 9 VATA. Group 9 is headed “Subscriptions to trade unions, professional and other public interest bodies” and exempts:

“1. The supply to its members of such services and, in connection with those services, of such goods as are both referable only to its aims and available without payment other than a membership subscription by any of the following non-profit making organisations -

...

(e) a body which has objects which are in the public domain and are of a political, religious, patriotic, philosophical, philanthropic or civic nature.”

INTERPRETATION OF EXEMPTIONS GENERALLY

21. It was common ground that the exemption should be strictly but not narrowly interpreted. That is because it represents an exception to the general rule that VAT is levied at the standard rate on all supplies of goods and services in the course of business. However, the terms used to specify the exemption must be given the meaning which they can fairly and properly bear in the context of the exemption (see Chadwick LJ in *Expert Witness Institute v CCE* [2001] STC

42 ('*EWI CoA*') at [16] to [19]). That is the approach that I shall take in interpreting the relevant exemptions in Article 132(1) PVD.

INTERPRETATION OF ARTICLE 132(1)(L)

22. In *British Association for Shooting and Conservation Limited v HMRC* [2009] STC 1421 ('*BASC*'), Lewison J (as he then was) set out in [38] what the taxable person in that case had to show in order to come within the exemption now in Article 132(1)(l) PVD. I gratefully adopt and adapt those criteria for this case. In order to come within the exemption, UGLE must show that:

- (1) it is a non-profitmaking organisation;
- (2) it makes supplies of services;
- (3) the services are supplied to its members in their common interest, ie for the benefit of all the members;
- (4) the services are supplied in return for a subscription fixed in accordance with its rules;
- (5) it has aims of a philosophical, philanthropic or civic nature; and
- (6) the exemption of those services is not likely to cause distortion of competition.

23. It was agreed that UGLE makes a single supply of services to its members in their common interest in return for a subscription fixed in accordance with its rules. There was also no dispute that UGLE is a non-profit-making organisation and that the exemption of supplies of services to its members is not likely to cause distortion of competition.

Aims of the organisation

24. It was common ground that the motives of the members in joining the organisation are irrelevant, see [65] of *The Game Conservancy Trust v CCE* (2001) VAT Decision 17394 ('*Game Conservancy*').

25. In *BASC*, Lewison J reviewed the approach taken by the ECJ in Case C-149/97 *Institute of the Motor Industry v CCE* [1998] STC 1219 ('*IMP*'), which concerned an organisation said to have aims of a trade union nature, and *EWI CoA* which considered the meaning of 'civic'. He set out, in [41] and [43], some guiding principles to be applied when ascertaining the aims of an organisation for the purposes of Article 132(1) PVD which, again, I adopt and adapt for this case. In ascertaining the aims of UGLE:

- (1) its aims are (at least prima facie) to be found in its constitutional documents;
- (2) its professed aims must be tested against what happens in reality; and
- (3) if it has multiple aims, then it is its main or primary aim which determines whether its supplies to members are within the exemption.

26. My view is that it is clear from the language of Article 132(1)(l) and the guidance given by Lewison J in *BASC* that an organisation which has more than one main aim can still come within the exemption if those aims are all listed and described in Article 132(1)(l). The fact that the organisation has other aims which are not described in Article 132(1)(l) does not mean that its services to members are not exempt provided that those other aims are not main aims. If, however, the organisation has a number of aims, all equally important, some of which are described in Article 132(1)(l) and some of which are not then the services supplied by the organisation to its members are wholly outside the exemption.

27. Accordingly, in this appeal, if UGLE has an aim which is more important than its other aims, ie a single primary aim, and that aim is one which is described in Article 132(1)(l) then

UGLE's supplies of services to its members are exempt. Also, if UGLE has several aims that are all equally important and are all described in Article 132(1)(l), and no other main aims, then UGLE's supplies of services to its members are exempt. If, on the other hand, UGLE has philosophical, philanthropic and civic aims but they are not its main aims or it has other main aims in addition then its services to its members are not exempt.

28. HMRC accept that, during the relevant period, UGLE had aims of a philosophical, philanthropic and civic nature. HMRC do not, however, accept that those aims, or any one of them, are UGLE's main or primary aims.

29. UGLE accepts that it had multiple aims during the period under consideration in this appeal. Mr Thomas submitted that all that is necessary is for UGLE's main aim or aims to be philosophical, philanthropic and/or civic in order to qualify for the exemption. He contended that 'main' aims are those which are principal, primary or predominant and subsidiary aims of a different nature are not relevant. In particular, activities which are designed to facilitate the achievement of other aims are by their nature subsidiary and are unlikely to amount to aims in themselves. Even if they do, if they facilitate the achievement of qualifying aims those activities do not prevent the exemption from applying.

Public interest/domain

30. Mr Watkinson submitted that the aim of Article 132(1) PVD is to exempt from VAT certain activities which are in the public interest. He contended that, for any given aim to fall within the exemption, it must be both (i) one of the aims listed in Article 132(1)(l) and (ii) be in the public interest.

31. Mr Thomas submitted that there was no additional test of public interest in Article 132(1). Those words in the heading to the Article did no more than indicate that the transactions specified in paragraphs (a) to (q) were considered by the draftsman to be activities in the public interest. Mr Thomas accepted, however, that an element of public benefit was inherent in the concept of 'philanthropic' and 'civic' aims.

32. In *IMI*, a case which concerned Article 13A of the Sixth VAT Directive (the predecessor of Article 132 PVD), the ECJ stated at [18]:

“It must also be remembered that the aim of art 13A of the Sixth Directive is to exempt from VAT certain activities which are in the public interest. As the court has stressed on several occasions ... that provision does not provide exemption for every activity performed in the public interest, but only for those which are listed and described in great detail.”

33. In my view, it is clear that the ECJ in *IMI* was stating that the transactions “listed and described in great detail” in Article 13A were activities which are in the public interest. I consider that the ECJ referred to public interest because those words are found in the heading of Article 13A and the ECJ wished to emphasise that public interest alone was not sufficient to bring a service within the exemption. That, however, was not an additional test which had to be met. If the ECJ had considered that public interest was one of the criteria for exemption under Article 13A then I would have expected the Court to give some guidance on the meaning of public interest and it did not do so. Accordingly, I consider that the only issue in determining whether a supply is exempt in this case is whether it falls within the description of one of the transactions listed in Article 132(1) PVD.

34. Mr Watkinson referred to *BASC*, in which Lewison J quoted paragraph 36 of the Tribunal's decision below ([2008] UKVAT V20739) in [46] and stated, at [47], that he saw no legal error in their conclusion. In paragraph 36, the Tribunal had made findings about *BASC*'s aims and objects and then stated:

“It follows that its claim that the residual subscription income is paid for an exempt supply can succeed only if that principal aim, of representing its members’ interests, can properly be said to be of a political, philanthropic or civic nature, and in the public interest.”

35. In the *BASC* case in the VAT and Duties Tribunal, the Tribunal found, in [21], that *BASC* acted in, or at least did not conflict with, the public interest. However, although paragraph 18 of *IMI* (see [32] above) was cited by counsel for HMRC, there does not appear to have been any discussion about whether the words ‘in the public interest’ were more than merely descriptive.

36. In the circumstances, I do not consider that the final words of paragraph 36 of the Tribunal’s decision in *BASC* or Lewison J’s endorsement of that paragraph on appeal are authority for the proposition that there is a two-fold test for the transactions listed in Article 132(1) which includes a separate requirement to show that the services are in the public interest.

37. Mr Watkinson also relied on *The Worshipful Company of Painter-Stainers v HMRC* [2008] UKVAT V20668 (*Painter-Stainers*) in which the VAT and Duties Tribunal considered, in the context of the same exemption, whether that appellant’s objects were in the public domain, saying at [13]:

“13. Lord Granchester in the *English Speaking Union* case [*The English Speaking Union of The Commonwealth v CCE* [1980] VATTR 184] said of the words ‘public domain’:

‘In my judgment the words “objects which are in the public domain” are those aims and objects which are regarded as matters of concern and interest to the public generally as opposed to matters of concern and interest to individuals or groups of individuals in their private capacities.’

In *Newport County AFC Social Club Limited v HMRC* (2006) VAT Decision 19807 the Tribunal pointed out that public concern need not be national concern, and that public concern is not limited to moral or artistic issues. We also agree with the approach of the Tribunal in *Civil Service Pensioners Alliance v Customs and Excise Commissioners* that we should consider whether the primary objects are in the public domain. Weighing up the objects we have found in issue (2), we consider that, while there are undoubtedly some objects in the public domain, it cannot be said that they are primarily in the public domain because those objects solely for the benefit of members rather than the public are too significant to be treated as incidental to the ones in the public domain.”

38. In *UGLE No 1*, the FTT stated at [11] that the heading to Article 132 “may, in our view, colour the fair meaning which may be given to an exemption: if a particular meaning which is otherwise open is plainly not in the public interest the exemption should not extend to it.” That is, in my view, plainly correct. It is the approach that I will adopt when considering the meaning and scope of the transactions listed and described in Article 132(1)(l) PVD. The FTT in *UGLE No 1* did not, however, state that ‘public interest’ was a separate condition that had to be satisfied in addition to being a transaction of a description in Article 132(1) in order to qualify for exemption (although this is how it was summarised in *UGLE UT* at [16] but without, it seems, being the subject of any argument).

39. In summary, I consider that “activities in the public interest” in the heading of Article 132 does no more than indicate the nature of the transactions which the article is intended to exempt. As the ECJ in *IMI* stated, those activities are listed and described in great detail in what is now Article 132(1). In [18] of *IMI*, the ECJ clearly regarded the activities so described as examples of activities performed in the public interest.

40. In my view, there is no separate public interest condition in Article 132(1). However, when considering whether a non-profit-making organisation has aims of a philosophical, philanthropic or civic nature, I will take into account whether its philosophy, philanthropy or civic objects are consistent with the public interest. I accept, as did Mr Thomas, that public benefit is inherent in the concept of ‘philanthropic’ and ‘civic’ aims. Public benefit is not synonymous with public interest and I do not consider that every aim in Article 132(1) must be for the benefit of the general public. However, it must, as I have stated, be consistent with the public interest if it is to fall within the exemption. For example, a body with aims of a religious nature might be thought to benefit only those who are members of a particular faith group and yet there is no suggestion that a religious body should only benefit from the exemption if it can show that its creed is followed by all or a majority of the population. Indeed, it is clear from *IMI* at [21] that trade unions are regarded as acting in the public interest when they defend and represent the interests of their members (and not the general public).

41. In conclusion, I do not consider that the inclusion of an additional requirement in Item 1(e) of Group 9 of Schedule 9 VATA that an organisation’s objects of a philosophical, philanthropic or civic nature must also be in the public domain as a condition of the exemption of supplies to its members is found in or consistent with Article 132(1)(l) of the PVD. Accordingly, I decline to follow the approach of the Tribunals in *Painter-Stainers* and in *Civil Service Pensioners Alliance v Customs and Excise* [2004] UKVAT V18911.

42. For the reasons set out above, I reject Mr Watkinson’s submission that, as well as showing that its main aim is ‘philosophical’, UGLE must also prove that its aim is in the public interest, ie for the benefit of the public. I also reject HMRC’s submission that, if UGLE’s main aim is indeed ‘philosophical’, it is not sufficiently in the public domain to qualify for the exemption. I accept that the philosophical objects of Freemasonry are primarily for the direct benefit of its members but I consider that such objects are nevertheless in the public interest in the relevant sense in the same way as the activities of faith groups and trade unions in relation to their members.

DEFINITIONS/MEANINGS

43. It is agreed that UGLE satisfies all the criteria identified by Lewison J in *BASC* and set out at [22] above except the fifth and, as I have already stated in [7] above, the only issue is whether UGLE has aims of a philosophical, philanthropic or civic nature which, separately or together, are its main aim or aims. However, it is still necessary to consider the meaning of the terms philosophical, philanthropic and civic before considering whether one or more is the main aim or main aims of UGLE.

44. It was common ground that the words ‘philosophical’, ‘philanthropic’ and ‘civic’ must be construed in accordance with their ordinary English meaning.

Philosophy and philosophical

45. The Oxford English Dictionary (3rd edition, March 2006) gives the following definitions of ‘philosophy’:

- “1. Knowledge, learning, scholarship; a body of knowledge
2. The love, study, or pursuit of wisdom, truth or knowledge
3. The branch of knowledge that deals with the principles of human behaviour; the study of morality; ethics
4. Rational inquiry or argument, as opposed to divinely revealed knowledge
5. The branch of knowledge that deals with the principles governing the material universe and perception of physical phenomena; natural science, scientific knowledge

6. A particular system of ideas or beliefs relating to the general scheme of existence and the universe
7. Originally; the branch of knowledge that deals with ultimate reality, or with existence and the nature and causes of things
8. The study of the general principles of a particular subject, phenomenon, or field of inquiry
9. The attitude or habit of a philosopher; mental or emotional equilibrium; calmness or serenity of temperament; uncomplaining acceptance of adverse circumstances; stoicism, resignation.”

46. This is the full set of definitions from which those in the Concise Oxford English Dictionary – 8th edition (1990) (‘COED’) cited by in the FTT in *UGLE No 1* are derived. That definition of philosophy is as follows:

“1 the use of reason and argument in seeking truth and knowledge of reality, esp. of the causes and nature of things and of the principles governing existence, the material universe, perception of physical phenomena and human behaviour. 2 a particular system of beliefs or set of beliefs reached by this. b a personal rule of life. 3 advanced learning in general (*doctor of philosophy*). 4 serenity; calmness; conduct governed by a particular philosophy.”

47. The COED defines ‘philosophical’ as follows:

“1 of or according to philosophy. 2. skilled in or devoted to philosophy or learning; learned (*philosophical society*). 3 wise; serene; temperate. 4 calm in adverse circumstances.”

48. HMRC do not disagree with the dictionary definitions above or seek to argue that they are not appropriate when considering the terms in Article 132(1)(l) PVD. HMRC accept that UGLE has an aim (or aims) that can be described as philosophical in nature but do not accept that it is a main aim of UGLE.

Philanthropic

49. There was no disagreement between the parties about the meaning of ‘philanthropic’ in Article 132(1)(l) PVD which has been the subject of a number of tribunal decisions.

50. The COED defines ‘philanthropy’ and ‘philanthropic’ as follows:

“Philanthropy ... *n.* 1 a love of mankind. 2 practical benevolence, esp. charity on a large scale.”

“Philanthropic ... *adj.* loving one’s fellow men; benevolent.”

51. In *Rotary International v CCE* [1991] VATTR 177 (*‘Rotary International’*), the VAT Tribunal held, at page 7, that:

“In our opinion [Rotary International’s] objects are of a philanthropic nature giving ‘philanthropic’ its ordinary meaning as expressed in the [Shorter Oxford English] Dictionary and by Stirling J and Lindley LJ [in *Re Macduff* [1896] 2 Ch 451]. Does not the Object of Rotary indicate ‘goodwill to mankind at large’ or ‘the disposition to promote the well being of one’s fellow-men’ through service? It seems to us that the object of Rotary and the purposes of [Rotary International] are redolent of a desire to promote the well being of mankind by serving one’s fellow men.”

52. In *Game Conservancy* at [64], the VAT and Duties Tribunal held, agreeing with the Tribunal in *Rotary International*, that an organisation may be ‘philanthropic’ if it administers

and organises the philanthropic activities of others (eg rotary clubs) even though it was not directly engaged in those activities. In *Game Conservancy*, the Tribunal held in [65] that

“... the ordinary meaning of the term ‘philanthropic’ connotes an aim or object of promoting the well-being of mankind by serving ones fellow men. This must be the stated aim as well as the real aim. The fact that the activities of the body in question may bring benefit to the public although not specifically designed to do so will exclude it from qualifying as philanthropic.”

53. In *UGLE No. 1*, the FTT defined ‘philanthropy’ and ‘philanthropic’ at [145] by reference to the Shorter Oxford Dictionary and concluded at [146] that:

“It seems to us that, particularly in view of the requirement that the exemption have a public interest, that acts which are intended to benefit only a defined class rather than mankind in general may not be, or be wholly, philanthropic, particularly if that class is small.”

54. In submitting that UGLE had a philanthropic aim, Mr Thomas relied on the fact that charitable giving by Freemasons through the Lodges and the Masonic charities for the benefit of people and causes unconnected with Freemasonry had increased over the years and was now substantial. He also submitted that the relief of need of Freemasons has been consistently recognised as charitable, eg by the Charity Commission, and is inherently philanthropic.

55. Mr Watkinson contended that if the objectives of an organisation are solely or mainly for the benefit of its members then it will not qualify for the exemption. Similarly, the fact that the activities of the body in question may bring benefit to the public although not specifically designed to do so will exclude it from qualifying as philanthropic (see *Game Conservancy* at [65]).

56. I have already decided at [41] and [42] above that there is no separate requirement that a philosophical aim must be in the public interest in order for it to fall within Article 132(1). For the same reasons, if the FTT in [146] of *UGLE No. 1* intended to say that a philanthropic aim can only be exempt if it meets a public interest test then I must respectfully disagree. In my view, the only condition is that the aim is ‘philanthropic’ as that word is ordinarily defined.

57. I adopt the definitions of ‘philanthropy’ and ‘philanthropic’ set out above and as applied in *Rotary International* and *Game Conservancy*. I would, however, describe philanthropy in slightly different terms as promoting the well-being of people and society by doing good.

58. I do not accept the FTT’s conclusion in [146] of *UGLE No. 1* that acts which only benefit a defined class of person cannot be ‘philanthropic’. I consider that an aim of benefitting a group of persons with specified characteristics, eg orphans or former members of the armed services, can properly be regarded as promoting the well-being of people and society. It seems to me that society at large benefits from such aims because its members know that others, or they themselves, may be beneficiaries of the benevolence if they are unfortunate enough to need it.

59. I consider, however, that there is a distinction between benefiting people, even if only few in number, who are members of society at large and benefiting only those (or their dependants) who have contributed to the organisation providing the benefits. The latter would not be philanthropy but self-insurance. Accordingly, I conclude that the giving by Freemasons through UGLE and the Masonic charities for the benefit of other Freemasons or their dependants is not philanthropy. If UGLE has the relief of Freemasons and their dependants as one of its aims then that is not a ‘philanthropic’ aim for the purposes of Article 132(1)(l) PVD.

60. Finally, I fully accept the analysis in [65] of *Game Conservancy* but the Tribunal was saying no more than it is not enough for a body’s activities to be philanthropic in effect if the

body does not have philanthropy as its main aim or one of them. The body must have the aim and act upon it: one without the other will not bring the body within the exemption.

Civic

61. The meaning of ‘civic’ was considered in *EWI CoA*. In that case, HMRC sought to argue that aims of a civic nature must mean aims of a municipal nature rather than aims relating to citizenship. Chadwick LJ rejected this submission at [27]:

“There is nothing in [what is now Article 132(1)(l) PVD] which suggests that ‘civic’ is to have – or to have only - a municipal connotation. None of the other descriptive epithets in that paragraph – political, trade-union, religious, patriotic, philosophical and philanthropic – have that connotation. ... It is plain that an interpretation of the phrase ‘aims of a civic nature’ which includes aims pertaining to citizenship nationwide accords with a normal and obvious use of language in an appropriate context.”

62. Longmore LJ agreed, holding in [36]:

“... the requirement that a body has objects which are of a civic nature if it is to be able to claim exemption, means that the body must have objects which promote the relationship of citizens, not among themselves, but with the state of which they are citizens.”

63. When he considered the meaning of ‘civic’ in *BASC*, Lewison J observed in [43] that:

“An organisation will not have aims of a civic nature if its objectives are solely (or perhaps mainly) for the benefit of its members.”

64. In *BASC*, the Tribunal had held that the organisation’s representation of its members could not conceivably be regarded as civic because it conferred no benefit on “the community at large, or in a particular locality (or localities)”. Lewison J held in [49]:

“The conferring of benefit on the community at large is in line with the explanation of the meaning (or one of the meanings) of ‘civic’ as explained in the *Expert Witness* case. ... In my judgment there was no legal error in this conclusion.”

65. Asplin J in *UGLE UT* took the view that aims of a civic nature are those which concern the citizen’s role in relation to the state. She held at [70]:

“As the FTT pointed out at [161] ‘charitable activities of Freemasons were largely unrelated to any relationship of citizens with the state, the fellowship and ritual enjoyed by Freemasons had nothing to do with the State, and the acceptance of and living by the three Grand Principles touched only slightly on a person’s relationship with the state. UGLE’s co-ordination, regulation, encouragement and promotion of these activities involved or affected no separate relationship of citizens with the state.’ In my judgment the FTT was entitled on the evidence to find as it did. The exhortation to good deeds and to be a good citizen is not enough to colour the entirety of the activities and it was for the FTT to weigh the evidence. Further and to the extent that this in fact, is intended to be a Ground of Appeal based upon an alleged failure to apply the correct legal test in relation to areas of a civil nature, I reject it. It seems to me quite clear from the judgments of Chadwick and Longmore LJ in the *Expert Witness* case that aims of a civic nature must concern the relationship between the citizen and the State rather than citizens with each other.”

66. The above authorities are all binding on me. It seems to me that ‘civic’ means “pertaining to citizenship nationwide” and includes organisations with aims which address the citizen’s role in relation to the state

SUMMARY OF ISSUES FOR DETERMINATION

67. As stated at [28] above, HMRC accept that UGLE had objects which were of a philosophical, philanthropic or civic nature in the period April 2010 to March 2018. However, HMRC contend that UGLE has not shown, on the balance of probabilities, that its philosophical, philanthropic and civic aims were, separately or together, the organisation’s main aim or aims.

68. The only issue for determination in this appeal is whether, between April 2010 and March 2018, UGLE’s philosophical, philanthropic and civic aims constitute a single primary aim or, taken together, are its only main aims. If so then UGLE’s appeal must be allowed. If UGLE has another aim or other aims of equal or greater importance then the appeal will fail.

EVIDENCE

69. UGLE served statements from three witnesses who are all Freemasons. The witnesses described various aspects of the history and practice of Freemasonry and produced documents which I refer to below. The witnesses for UGLE and, in outline, the areas covered by their evidence were as follows:

(1) Richard Berman is Visiting Research Fellow at Oxford Brookes University and a Fellow of the Royal Historical Society. Dr Berman is the author of several books concerning eighteenth-century Freemasonry. Dr Berman’s evidence was that the key features of Freemasonry, as established in the eighteenth-century, were derived from Enlightenment thinking and values (ie a philosophy).

(2) George Boys-Stones is Professor of Classics and Philosophy at the University of Toronto. He is the author of a number of books on philosophy in the classical period and editor of *Phronesis*, the leading international academic journal for Ancient Philosophy. Professor Boys Stones’ evidence was that Freemasonry is a philosophical system and way of teaching philosophy, specifically Aristotle’s Nichomachean ethics.

(3) Quentin Humberstone is the Treasurer of UGLE. In that role, Mr Humberstone oversees the financial affairs of UGLE and is a member of its Board of General Purposes (‘the Board’). Mr Humberstone has been Treasurer for 15 years. Previously, he was he was a trustee of the Royal Masonic Trust for Girls and Boys, now part of the Masonic Charitable Foundation (‘MCF’). He is also treasurer of the London Freemasons’ Charity. His evidence dealt with UGLE’s aims and activities, especially the charitable activities.

70. All three gave evidence at the hearing. Their witness statements stood as their evidence in chief but they expanded on some points in their statements in response to questions from Mr Thomas and they answered questions put by Mr Watkinson in cross-examination.

71. I found all the witnesses to be credible and I accept their evidence of fact in relation to the issue in this appeal. I incorporate the evidence of Mr Humberstone in my findings of fact and discussion below. However, a great deal of the evidence of Dr Berman and Professor Boys-Stones concerned historic matters which were peripheral to the issue to be decided in this case and matters of academic conjecture which I do not need to deal with in detail.

72. Dr Berman gave his evidence as a historian specialising in the subject of Freemasonry within its social and political context. His witness statement described how modern Freemasonry developed in the 18th century and reflected the principles of the Enlightenment which remain the core of Freemasonry today. He stated that the values of the Enlightenment

are embodied in the Masonic oaths and obligations (known as ‘Charges’), Masonic ritual and certain of the Regulations. He also gave some evidence of his experience of having been a Freemason for over forty years.

73. Professor Boys-Stones’ evidence was similarly academic and mostly concerned with his theory that Masonic ritual and the lectures that take place at Lodge meetings were a specific system of belief modelled on Aristotle’s Nicomachean Ethics. In his view, Freemasons are taught the principles of the Nicomachean Ethics through the teaching of the Emulation Ritual and the Three Degrees of initiation, the content of which is symbolic and allegorical. In cross-examination, Professor Boys-Stones acknowledged that his evidence linking the Masonic ritual to Aristotle was one possible thesis and that no one had made that link before. Like Dr Berman, Professor Boys-Stones also gave evidence about his experience as a Freemason.

74. In summary, the evidence of Dr Berman and Professor Boys-Stones, while interesting, did little to address the issue of whether, between June 2010 and March 2018, UGLE had aims of a philosophical, philanthropic or civic nature which were, separately or together, its main aim or aims.

75. HMRC did not produce any witness evidence.

BACKGROUND FACTS

76. UGLE was founded in 1717 and is the oldest Grand Lodge of Freemasons in the world. It is the representative body of Freemasonry in England, Wales and the Channel Islands and its headquarters are at Freemasons’ Hall, Great Queen Street, London. Freemasons’ Hall is used for a number of meetings and also houses the two largest Masonic charities.

77. UGLE is an unincorporated association. It has approximately 175,000 members who, in turn, are members of some 6,500 local Lodges. Some members belong to more than one Lodge. Mr Humberstone said (and I accept) that it is the largest secular fraternal and charitable organisation in the UK.

78. The Lodges are grouped into Provinces. There are 48 Provinces which broadly correspond to the counties of England and Wales plus London. The Provinces report to UGLE as do five Lodges which report to UGLE directly rather than through a Province.

79. UGLE has control over the Lodges and the practice of Freemasonry and the activities of Freemasons.

80. UGLE has annual income of around £13m including £9m from Provinces/Lodges (membership dues, fees and room rentals) and some £3m investment income. It has net assets of £70m. It is managed by an executive team who are supervised by its Board and it employs some 90 people. It operates as a not-for-profit organisation and does not distribute any monies to its members.

81. UGLE’s publication “What is Freemasonry?” states that Freemasons are required to believe in a Supreme Being although Freemasonry is not a religion and there is no requirement for belief in any particular religion. Nevertheless, an absence of belief in a Supreme Being of some sort disqualifies someone from becoming or remaining a Freemason. The same publication sets out the three great principles of Freemasonry which are:

- (1) “Brotherly Love - Every true Freemason will show tolerance and respect for the opinions of others and behave with kindness and understanding to his fellow creatures.
- (2) Relief - Freemasons are taught to practise charity and to care, not only for their own. But also for the community as a whole, both by charitable giving, and by voluntary efforts and works as individuals.

(3) Truth - Freemasons strive for truth, requiring high moral standards and aiming to achieve them in their own lives.”

82. UGLE’s website says in relation to the question “What is Freemasonry?”:

“Freemasonry means different things to each of those who join. For some, it’s about making new friends and acquaintances. For others it’s about being able to help deserving causes – making a contribution to family and for society. But for most, it is an enjoyable hobby.”

83. There are three stages of initiation as a Freemason known as the ‘Three Degrees’ which are explained further in [91] below. The Three Degree are a progression of allegorical two-part plays which are learnt by heart and performed within each Lodge. In the second of the Three Degrees, the candidate is asked “What is Freemasonry?” and must answer:

“A peculiar system of morality, veiled in allegory and revealed through symbols.”

84. The Three Degrees are set out in the ‘Emulation Ritual’ which is a book containing the rituals together with a preface (emphasising UGLE’s role as custodian of the ritual), notes for guidance on ritual and procedure and the First, Second and Third degrees. A Freemason must learn and perform the Three Degrees at meetings of his Lodge.

85. A typical Lodge meeting comprises the following:

- (1) The Opening;
- (2) The Minutes;
- (3) Notices of Motions and/or ballots;
- (4) The performance of a ritual (one of the Three Degrees, an annual Installation, one of the Three Lectures and other lectures);
- (5) The giving of notices from UGLE or the Province;
- (6) A report by the Charity Steward and others; and
- (7) The Closing.

86. In addition, after the meeting many Lodges (but not all) dine or at least have a snack and refreshments for those who want them. These activities are not mandatory and do not form part of the meeting. They are commonly referred to as “after proceedings”.

87. The charitable activities of UGLE and Freemasons more generally are described in more detail in the discussion of whether UGLE has a philanthropic aim below.

DISCUSSION

88. The issue in this appeal is not whether UGLE has aims of a philosophical, philanthropic and civic nature but whether those aims, or any one of them, are UGLE’s main or primary aim to the exclusion of any other main aims. It is necessary, therefore, to identify UGLE’s aims as an organisation and then determine which of them are its main or primary aims.

89. The difficulty which I face in this appeal is that it is not possible to follow the guidance in *BASC* and turn to the constitutional documents as *prima facie* evidence of UGLE’s aims because such documents as there are do not set out the aims of Freemasonry authoritatively. I was referred to a book called the Book of Constitutions (‘BoC). The BoC dates from the 18th century and contains the general charges, laws and regulations. Indeed, one of the witnesses for UGLE, Dr Berman, said that the BoC should really be called the Book of Regulations. The 2016 version of the BoC contains a summary of the Aims and Relationships of the Craft, Basic Principles for Grand Lodge Recognition, General Laws and Regulations for the Government

of the Craft and illustrations of various objects used in the practice of Freemasonry (jewels, chains, collars and aprons).

90. Mr Humberstone said that the BoC reflects the aims of UGLE as being to establish, practise, regulate and determine matters relevant to the craft of Freemasonry and to manage the interests of Freemasons. In his view, the core of the craft of Freemasonry is the learning and performing of ritual by Freemasons in lodge meetings. Mr Humberstone contrasted the BoC with the Emulation Ritual which is a separate booklet containing the Three Degrees of Freemasonry which are three allegorical plays that Freemasons must learn and perform at Lodge meetings. Mr Humberstone said that the BoC focused on things not to do whereas the Emulation Ritual was concerned with things to emulate. UGLE changes the BoC regularly whereas the Ritual is only changed by UGLE occasionally.

91. Mr Humberstone explained that the Three Degrees are Entered Apprentice, Fellow Craft and Master Mason. The first degree teaches that all men are equal and that some will do better than others and it is the duty of those that do better to help the less fortunate. The second degree teaches the importance of improving oneself through education. The third degree encourages the Freemason to reflect on his own mortality and that he has one life which he should use for good. The learning and performance of the Three Degrees, together with the Three Lectures, teach the three Grand Principles of Freemasonry: Brotherly Love, Relief and Truth. The Principles are defined in the first Lecture of the Three Degrees and are also explained in the booklet entitled “What is Freemasonry?” as follows:

“Brotherly Love – Every true Freemason will show tolerance and respect for the opinions of others and behave with kindness and understanding towards his fellow creatures.

Relief – Freemasons are taught to practise charity and to care, not only for their own, but also for the community as a whole, both by charitable giving, and by voluntary efforts and works as individuals.

Truth – Freemasons strive for truth, requiring high moral standards and aiming to achieve them in their own lives.”.

92. I consider that the BoC and Emulation Ritual are constitutional documents but they do not explicitly state the aims of UGLE. I accept that it is possible to infer the aims of UGLE from the Three Grand Principles but they seem little more than a general exhortation to Freemasons to behave considerably, charitably and with integrity. I can derive from the Grand Principles that Freemasonry (and, therefore, UGLE) has a charitable, ie philanthropic, aim. Further, the promotion of a particular code of conduct or way of living derived from the Three Degrees and the Grand Principles can, in my view, fairly be described as a philosophical aim. For reasons set out below at [124] and [125], I do not consider that UGLE has a civic aim.

93. The question remains whether UGLE’s philosophical and philanthropic aims are a main aim or main aims of Freemasonry.

Philosophical aim as a main aim

94. UGLE’s primary case is that, throughout the period April 2010 to March 2018, it had a philosophical aim and that was its main aim. Mr Thomas said that UGLE’s primary function is to act as the governing body for Freemasonry in England and Wales. In that role, UGLE leads, advises on, promotes and upholds all aspects of the practice of Freemasonry and, accordingly, UGLE has objects or aims of a philosophical nature. That is because Freemasonry itself consists of a series of principles and practices which together amount to a system of rules for life and all of its activities should be understood as being in service of that aim.

95. HMRC accept that, during the relevant period, UGLE's aims included aims of a philosophical nature. HMRC do not accept, however, that UGLE has a main aim that is 'philosophical'. HMRC's case is that the evidence shows that UGLE's aims are not all philosophical and that UGLE has not shown that its primary aim or one of its main aims is philosophical.

96. I accept the evidence of the witnesses for UGLE that the ritual is at the heart of Freemasonry. The Three Degrees of Freemasonry are achieved by the learning and performance of a series of ritual dramas. It is through the Three Degrees – i.e. the three rituals - that the three Grand Principles are explained and taught. The three Grand Principles are Brotherly Love, Relief and Truth. The Emulation Ritual is the central and most important part of the Lodge meetings. UGLE requires Lodges to perform the Ritual at their meetings. The Ritual is not simply performed at the Lodge but must be learned by heart by each Freemason in his own time. I accept that the Emulation Ritual is primarily intended to teach the values and principles, ie the philosophy, of Freemasonry. It seems to me that the emphasis placed on the learning and performance of the Ritual and the fact that it embodies and instils the values and principles of Freemasonry show that the philosophy is a main aim of the organisation.

97. Evidence of the centrality of the General Principles is found in two addresses given by the Grand Master, HRH Duke of Kent, at the annual investiture of officers of UGLE and published in UGLE's quarterly magazine, MQ. The two speeches pre-date the period under consideration in this appeal but there was no suggestion that they did not reflect current views. In his speech in 2002, the Grand Master said in relation to an initiative called "Freemasonry in the Community" (emphasis supplied):

"I have been delighted and greatly encouraged by the enthusiastic way in which the Provinces, Districts and London have taken up the challenge of communicating to the general public and the media what a substantial contribution the Craft has made to society for well over 300 years. Not that we are concerned simply about the past, we must continue to get the message across that Masons play an important role in their communities and *Masonry encourages its members to live by their high principles in their everyday lives.*"

98. Also in his 2006 address on the same occasion, which was mostly about charitable activities, the Grand Master said:

"Brethren, in speaking at some length today about charity I want to stress that we must not fall into the trap of becoming dominated by financial charity, nor even its extension into the aspect and doing good by some practical means, if that leads us to forget that Freemasonry is a system of belief and principle that offers us a framework for the better regulation of our lives.

Charity is one of the foundations upon which Freemasonry rests, but we must ensure that the other basic tenets are not forgotten or overlooked, and we must look to what observance of all those principles is going to achieve for us. That is the way that we will receive benefit ourselves for what we do for others."

99. HMRC accept that the Emulation Ritual existed partly to teach the precepts of Freemasonry but, in his skeleton argument, Mr Watkinson contended that UGLE also promoted the Ritual and other ceremonies, such as the annual Installation referred to above, for their own sake. He submitted that once those precepts had been taught and learned by a member going through the Ritual, there was no purpose in going through it again, certainly not repeatedly. The repetition of Ritual showed that, at some point, members participated in the Ritual, simply for its own sake.

100. I do not accept Mr Watkinson's submission on this point. There was no evidence to support it and all the witnesses denied that there was no point in repetition of the ritual. Dr Berman's evidence was that he found that he did not fully understand the meanings behind the different parts of the ritual until he had been through it and seen them performed many times over a number of years. I accept that the repetition of ritual in Freemasonry can have a value which is more than mere performance of the ritual itself. Participation in and repeated observation of ceremonies encourages reflection and reinforces precepts as Dr Berman's evidence shows. Many religions have rituals and ceremonies which are repeated at regular intervals and yet it could not credibly be suggested that they become pointless after a certain number of occasions. In short, I find that the ritual and ceremonies are not, in themselves, an aim of UGLE or Freemasons but a means of teaching and reinforcing the philosophy of Freemasonry.

101. Accordingly, I have concluded that UGLE had a philosophical aim during the period from April 2010 to March 2018 and that this philosophical aim was a central or main aim of UGLE. This does not determine the appeal and I must now consider whether UGLE had other aims that were equally important and, if so, whether they fall outside Article 132(1)(l) PVD.

Philanthropy as a main aim

102. If I do not accept that UGLE had a philosophical aim as its only main aim, UGLE's alternative case is that, taken together, its main aims during the period were solely of a philosophical, philanthropic and civic nature and thus fall within Article 132(1)(l) PVD. I have already concluded that the aim of providing relief for Freemasons and their dependants is not a 'philanthropic' aim for the purposes of Article 132(1)(l) PVD (see [59] above). If, during the period from April 2010 to March 2018, the provision of relief for Freemasons and their dependants was also one of UGLE's main aims then it follows that its services to its members during that period were not exempt.

103. There was no dispute that UGLE had a philanthropic aim during the relevant period. Mr Thomas submitted that charity in all its forms lies at the heart of Freemasonry. Mr Humberstone said in his witness statement that:

“Of the three Grand Principles, Relief is the most visible and may be said to be the defining one. In modern terms, Relief is taken as synonymous with charity in the widest sense. That is, not simply providing money to relieve distress, but actually caring and giving of our time and talents in the service of our communities as a whole.”

104. Each Lodge and province has a charitable fund and a Charity Steward. Each Lodge meeting includes a collection for charity. The Charity Steward is responsible for co-ordinating time commitments to various charitable projects as well as financial contributions.

105. HMRC accept that the evidence shows that one of UGLE's aims is the promotion of 'Relief' in the form of the provision of time and the donation of money to good causes. HMRC further accept that where the good causes are not related to Freemasonry the giving of time and/or money is a philanthropic activity and UGLE's promotion of it was a philanthropic aim. However, Mr Watkinson submitted that the provision of support for Freemasons and their dependants was also a significant aim of UGLE.

106. In the two addresses referred to in [97] and [98] above, the Grand Master spoke mostly about Freemasonry's charitable activities. In his 2002 speech, the Grand Master said immediately after the passage quoted in which he referred to Freemasons' "high principles":

“Prominent among these are our charities. Every year we raise tens of millions of pounds for our several charities, and a substantial proportion of this is

directed towards non-Masonic causes, many of which are for the long-term benefit of society.”

107. In his 2006 address, immediately before the passage quoted in [98], the Grand Master said:

“The Craft has embraced the policy of openness with increasing optimism and the benefits are becoming ever more visible. Nowhere has openness been more apparent than in our charitable activities. The amount of money raised and the donations made to both Masonic and non-Masonic charities has been remarkable, and has contributed significantly to the raising of our profile and our increasing acceptance in the wider community.

Nevertheless, charity is not just about raising money and making donations to good causes, valuable though these are. It has a broader and deeper purpose. Apart from giving alms and providing help by liberality to those in need or distress, charity is also defined as love of one’s fellow man, as kindness, and as leniency and judging others.

Some of our more thoughtful members have commented recently that our charitable activities are in danger of becoming one dimensional. Whereas real charity, as I have just defined it, is multi-faceted. Many of our brethren and their Lodges already give much of their time to practical charitable work, which is entirely laudable, and must continue.

But as Masons we should all try to involve ourselves to a greater extent in activities which bring joy and happiness into the lives of disadvantaged people, and not just assume that a cash donation discharges our obligations.

Helping those in need or distress therefore has practical as well as financial connotations but of course taking Masonry into the community through charitable activities means providing tangible assistance to those in need, and that requires time, a commodity that is precious to us all. By the use of time freely given we can show real liberality of spirit to those who need our help.

We should also spend more time in our assembly in considering the excellences of charity and the lessons it has to teach us as Freemasons, remembering that no less an authority than St Paul placed charity in front of both faith and hope as the greatest qualities.

We are also conscious that Freemasonry rests on the basic tenets of friendship, charity and integrity which we know as Brotherly Love, Relief and Truth.

Friendship is the cement which binds us together, integrity is a characteristic which should be inherent in all Freemasons, but charity in all its aspects is the practical application of Freemasonry to the rest of the world. Through our charitable work and our openness about it the world may know the happy and beneficial effects of Freemasonry.”

108. The Grand Master’s addresses from which the passages above are taken pre-date the period under consideration in this appeal but there was no evidence to suggest that the importance of charitable activities had declined since then. It is clear from those passages that providing support to both Masonic and non-Masonic charities was regarded by the Grand Master, and I infer by UGLE, as a substantial and important part of Freemasonry. I find that charitable activities, in the broadest sense, are central to Freemasonry and a main aim of UGLE.

109. In the earlier part of the period under consideration in this appeal, the principal charitable activities of Freemasonry were undertaken by four central Masonic Charities: the Grand Charity, the Royal Masonic Trust for Girls and Boys, the Royal Masonic Benevolent Institution and the Masonic Samaritan Fund. The four charities focused on young people, ill people, old people

(including 19 residential care homes/facilities), and vulnerable people. The charities also preferred beneficiaries who were Freemasons or dependants of Freemasons, either living or deceased over those with no Masonic connections. For example, only an active Freemason or, if deceased, his widow and dependants may be considered for a grant of financial assistance from the Masonic Relief Grants Committee of the Grand Charity. The first object of the Royal Masonic Trust for Girls and Boys is the relief of poverty and the advancement of education of the children of Freemasons and then only if and to the extent that the Trust's resources are not used for that purpose can they be used for assisting children who are not the children of Freemasons. The object of the Royal Masonic Benevolent Institution is to provide financial assistance and accommodation to relieve the need, suffering and distress of the beneficiaries. Beneficiary is defined in the bye-laws of the Institution as Freemasons or the dependants of living or deceased Freemasons of limited means and in need. The same bye-laws provide that the Trustees are empowered to admit non-Masons into the Institution's accommodation "on the basis that no eligible Masonic 'beneficiary' is disadvantaged by the occupation". The objects of the Masonic Samaritan Fund are to advance health and relieve those in need by reason of their ill-health or disability by the provision of medical assistance, support, treatment, care or advice to beneficiaries. Again, 'beneficiaries is defined as Freemasons and the wives or widows, children, dependants or partners of Freemasons (living or deceased).

110. In the latter part of the period, the main Masonic charity was the Masonic Charitable Foundation ('MCF') which was formed in 2015. With effect from the end of March 2016, the MCF became the sole trustee of the four central Masonic charities. The MCF was set up in order to streamline the administration of the four charities and to have wider charitable objects than the four predecessor charities including local and community giving unconnected with Freemasonry.

111. The MCF is separate from UGLE with its own Board of Trustees but UGLE is critical to its operation. Members of UGLE form the majority of the Board and the Grand Master is Grand President of the MCF. All of the MCF's charitable funds are derived from the donations by Freemasons. Until the formation of MCF, UGLE levied an annual contribution for the Grand Charity of £17 per member from every Lodge. From January 2017, UGLE paid all donations by members for charitable purposes to the MCF and encouraged Lodges to do the same with amounts they collected. Between 2016 and 2018, UGLE paid more than £34m to the MCF. At the same time, all funding to the four central Masonic Charities was cut off but they retained their existing funds which in some cases, eg the Girls and Boys Charity, would take several years to disburse.

112. Between April 2017 and March 2018, the MCF held the Tercentenary Community Awards to mark the three hundredth anniversary of the founding of UGLE. This involved 300 grants amounting to £3m to 300 community organisations to support the disadvantaged in need across England and Wales. Other examples of giving to non-Masonic causes included the donation of £2.5m to the Royal College of Surgeons Freemasons Fund for surgical research between 2010-2018. UGLE also encouraged charitable giving at Lodge and Provincial level. An example of this is the donations by the Metropolitan Masonic Charity including £1.25m for the London Fire Brigade appeal.

113. Mr Humberstone's evidence was that, since the periods under consideration in *UGLE No 1*, the amount spent by the MCF and the other smaller Masonic charities on beneficiaries with no connection with Freemasonry had risen and the proportion spent on Freemasons had fallen. In his witness statement, Mr Humberstone said that, in 2017 and 2018, some 10% of the charitable expenditure by all the Masonic charities went to Freemasons and 40% was for the dependants of living and deceased Freemasons while approximately 50% was given to beneficiaries who had no connection with Freemasonry. At the hearing, Mr Humberstone gave

more detailed figures which showed that Masonic giving during 2017 and 2018 was 48% to Freemasons and their dependants and 52% to others with no connection to Freemasonry. However, I note that the breakdown treated the Museum of Freemasonry and Library Charitable Trust as a third party charity and treated the expenditure of £1.15m as not connected with Freemasonry. I do not accept that the funding of the museum and library, both located in UGLE's headquarters at Freemasons' Hall, should be regarded as unconnected with Freemasonry but nothing turns on that in this case as, on any view, the proportion of financial support given to Freemasons and their families is substantial at around half of all grants and donations.

114. The importance of providing support for Freemasons and their dependants who are in need is a central tenet of Freemasonry. It is made clear in the First Lecture. In the second section of the First Lecture, the candidate states that the second reason for depriving him of money and metal things as part of the initiation ceremony is as follows:

“As I was received into Masonry in a state of poverty, it was to remind me to relieve indigent Brethren, knowing them to be worthy, without detriment to myself or my connections.”

115. This is further explained by the candidate later in the second section as follows:

“It was figuratively to represent the seeming state of poverty and distress in which I was received into Masonry, on the miseries of which (if realised) were I for a moment to reflect, it could not fail to make that impression on my mind, as to cause me never to shut my ears unkindly to the cries of the distressed, particularly a Bro. Mason, but listening with attention to their complaints, pity would flow from my breast, accompanied with that relief their necessities required and my ability could afford. ...”

116. In the third section of the First Lecture, the candidate explains the significance of that part of the initiation ceremony where he is asked to deposit an amount for the relief of distressed Freemasons but cannot as he has been deprived of anything of value on his person as follows:

“As a warning to my own heart, that should I at any future period meet a Brother in distressed circumstances who might solicit my assistance, I would remember the peculiar moment I was received into Masonry, poor and penniless, and embrace the opportunity of practising that virtue I had professed to admire.”

117. The duty to provide relief to fellow Freemasons in need is also contained in the BoC as one of the “Charges of a Freemason”. The sixth section of the Charges concerns the behaviour expected of a Freemason in certain circumstances and includes the following in relation to “a strange brother”:

“But if you discover him to be a true and genuine brother, you are to respect him accordingly; and if he is in want you must relieve him if you can, or else direct him how he may be relieved. You must employ him some days, or else recommend him to be employed. But you are not charged to do beyond your ability; only to prefer a poor brother that is a good man and true before any other poor people in the same circumstances.”

118. Mr Humberstone emphasised, and I accept, that a Freemason cannot receive support in respect of need that arose before the person became a Freemason. Further, all giving in relief of need is subject to a strict means test for financial support. While I accept that this is so, it does not transform the nature of the support given by UGLE or Freemasons into a philanthropic act. The provision of ‘Relief’ remains a benefit bestowed on a person who has contributed to the organisation in the knowledge if not the expectation that such benevolence would be bestowed on him or his dependants if the need arose.

119. I also heard evidence, principally from Mr Humberstone, about the charitable activities of Lodges and individual Freemasons at a regional or local level. I have no doubt that Freemasons do a lot of good work in the community by raising money and giving their time for local groups, such as the Scouts, and initiatives (see the Grand Master's addresses at [106] and [107] above). However, I accept Mr Watkinson's submission that the evidence of the charitable and voluntary activities of individual Freemasons and Lodges does not assist in showing that UGLE, which neither encourages nor facilitates such activities, has a philanthropic aim. Whether UGLE has a philanthropic aim is to be ascertained from its own activities and the activities of the charities that it administers and supports. Further, I was not satisfied that the charitable works of individual Freemasons, such as volunteering to give time to a local charity, were undertaken by them as Freemasons rather than simply as public-spirited members of the community.

120. There is no dispute that UGLE has a philanthropic aim. UGLE undoubtedly supports charitable causes which are not related to Freemasonry and encourages Freemasons to donate money and time to such activities. However, it is a central tenet of Freemasonry that Freemasons should provide 'Relief' to other Freemasons and their dependants. The duty to help other Freemasons is clearly set out in the Lectures and the BoC and in the objects of the four central Masonic Charities. Those documents show that the provision of relief for Freemasons and their dependants is one of the main aims of Freemasonry and thus UGLE.

121. It is true that the objects of the MCF set out in its Articles of Association are wider than those of the central Masonic Charities. However, the MCF was only founded in 2015 and all expenditure by the four charities before then was made in accordance with their objects which prioritised Freemasons and their dependants. Even after the MCF was formed, the charities continued to make grants thereafter and will do so until their funds have been exhausted. Although the MCF became sole trustee of the central Masonic Charities in 2016, their objects did not change and, as trustee the MCF was bound to act in accordance with them. This is borne out by Mr Humberstone's evidence which showed that, in 2017 and 2018, approximately 50% of Freemasonry's overall charitable giving was to Freemasons and their dependants or entities with Masonic connections such as the Museum of Freemasonry.

122. On the basis of the evidence set out above, I consider that the provision of 'Relief' was a main aim of UGLE and of at least equal importance to its philosophic aim. The provision of 'Relief' took two forms: donations to good causes unconnected with Freemasonry and supporting Freemasons and their dependants in distress. As I have already decided (see [59] above), the latter is not a philanthropic aim for the purposes of Article 132(1)(l) PVD. I consider that the two elements of 'Relief' were important to UGLE and thus main aims but the evidence shows that the provision of Relief to Freemasons and their dependants was the more important of the two elements throughout the period 2010 to 2018. It does not matter whether the provision of Relief is regarded as two aims, one philanthropic and one non-philanthropic, or, alternatively, a single aim which is a mix of philanthropic and non-philanthropic activities. In either case, I find that UGLE had a main aim which was not 'philanthropic' within Article 132(1)(l). It follows, for reasons given at [26] and [27] above, that the services supplied by UGLE to its members are not exempt.

Civic

123. In view of my conclusion that UGLE had a main aim that is not described in Article 132(1)(l) PVD, I do not need to consider whether UGLE had a civic aim as a main aim but, as I heard argument on it, I do so briefly.

124. I have not found anything in the documents described above which indicates any civic aim as I understand that term (see [66] above). UGLE cannot be said to be an organisation that

has aims pertaining to the citizen and the state. Indeed, Freemasons are prohibited from discussing matters of religion and politics in the Lodges and UGLE accepts that it is not a political society.

125. Mr Thomas accepted that Freemasonry's civic aims were less important than the philosophic and philanthropic aims. He submitted that, nevertheless, Freemasonry has an important civic element in that all Freemasons are encouraged to obey the law, to be loyal to the State and to be good citizens. The second Charge of a Freemason in the BoC is to obey the law and avoid insurrection. This was explained by the evidence of Dr Berman as having originated in Freemasonry's support for the Hanoverians in the eighteenth century. It seems to me, however, that the elements relied on by Mr Thomas do not show that UGLE or Freemasonry has a civic aim. They are a mix of legal obligations which apply to everyone and civil conduct expected of any good citizen which may be inferred from the BoC, the Emulation Ritual and other materials. The matters relied on do not concern the relationship between the citizen and the State or citizenship generally but the behaviour of the individual Freemason, ie a citizen, within the State. These matters are, in my view, no more than generally accepted social norms and obligations which UGLE expects and encourages but they are not a specific aim of Freemasonry. Accordingly, I find that UGLE does not have a civic aim. If I am wrong in that conclusion, I consider that any civic aim is a minor aspect of Freemasonry and is not a main aim of UGLE.

Other aims

126. Mr Watkinson also submitted that, during the relevant period, UGLE had other aims which were main aims. Again, as I have already found that UGLE had a main aim which is not within Article 132(1)(l) PVD, I do not need to deal with his submissions but I briefly indicate my findings and conclusions.

127. Mr Watkinson submitted that one of the principal aims of Freemasonry (and thus UGLE) is a social aim which consists of making friends, socialising and networking. This is undoubtedly a motivation for men to become Freemasons and is recognised as such on UGLE's website:

“You want to make new friendships

From the Universities Scheme and new and young masons clubs, to special interest Lodges, Freemasonry gives members many opportunities to make a wide circle of friends for life. Finding bonds with people who share common interests and meeting people from all different backgrounds are only some of the ways Freemasonry can help cultivate lasting friendships.”

128. Mr Watkinson also relied on evidence of social elements of Lodge meetings such as the ‘Festive Board’ (a dinner) and ‘Masonic Fire’ (a form of toast) at the end of the dinner.

129. Mr Thomas submitted that UGLE requires Lodges to perform the ritual at their meetings but does not require them to have social events. He contended that there were many dining traditions which varied substantially between Lodges and the social side was more important for some members than others.

130. It seems to me that the social element of being a Freemason is undoubtedly important which is why it is referred to so frequently on UGLE's website and in its publications for candidates. However, the fact that something is a reason for joining does not make it an aim of an organisation (see *Gaming Conservancy* at [65]). An attractive salary might be a good reason to join a company but it does not mean that one of the company's main aims is paying money to its employees. I consider that, similarly, the possibility of making friends and the convivial nature of Lodge meetings are the means by which UGLE recruits new members and

retains existing ones. That may be an aim of UGLE because it wishes to promote Freemasonry but it is an ancillary aim because it serves the main aims of Freemasonry.

131. Mr Watkinson contended that another main aim of Freemasonry was the bringing together of men as a fraternity to practice the system of morality. He said this was separate from the aim of promoting the system of morality, ie the philosophic aim, and the social aim referred to above. I accept that one of UGLE's aims is to bring men together but I consider that this is primarily for the practical purpose of teaching Freemasons the principles and practices of Freemasonry, ie its philosophy, by the learning and performance of the Emulation Ritual. It seems to me that bringing men together is a necessary step in achieving Freemasonry's philosophic aim and is ancillary to that aim and not an aim in itself.

132. Referring to statements on UGLE's website, Mr Watkinson asserted that UGLE and Freemasonry also have an aim of practical self-improvement, ie the personal acquisition of a practical skill-set by the member for his direct benefit, which cannot be characterised as philosophical. Mr Thomas responded that this was not an aim in itself but part of the moral and intellectual self-improvement which is a function of the system of morality. I agree with Mr Thomas on this point. The examples taken from the website refer to how a man may benefit from being a Freemason, practising the Ritual and progressing through various offices to Worshipful Master. These examples do not show that self-improvement is an aim, much less a main aim, of UGLE but only that there may be beneficial consequences of becoming and remaining a Freemason.

133. In his skeleton, Mr Watkinson also referred to UGLE having the preservation of historical material relevant to Freemasonry in the Museum of Freemasonry and library and lobbying on behalf of members as main aims. Mr Watkinson did not press these points in oral submissions and I think that he was right not to do so. The museum and library clearly support the aims of Freemasonry by preserving records and artefacts which are available for research but such activities are clearly incidental to the practice of Freemasonry itself. The examples of lobbying relied on by Mr Watkinson were only two in number and occurred outside the period of the appeal. I do not accept that the evidence showed that lobbying was an aim, and certainly not a main aim, of UGLE during the relevant period.

134. Mr Watkinson also submitted that the performance of ceremony and ritual for its own sake was an aim of Freemasonry and UGLE. I have already dealt with this in [99] above.

DISPOSITION

135. For the reasons set out above, I have decided that, in the period from April 2010 to March 2018, UGLE's supplies of services to its members were not exempt and its appeal is dismissed.

136. I am grateful to Mr Thomas QC and Mr Watkinson for their extremely clear and helpful presentations, both written and oral, of the issues in this case.

RIGHT TO APPLY FOR PERMISSION TO APPEAL

137. This document contains full findings of fact and reasons for the decision. Any party dissatisfied with this decision has a right to apply for permission to appeal against it pursuant to Rule 39 of the Tribunal Procedure (First-tier Tribunal) (Tax Chamber) Rules 2009. The application must be received by this Tribunal not later than 56 days after this decision is sent to that party. The parties are referred to "Guidance to accompany a Decision from the First-tier Tribunal (Tax Chamber)" which accompanies and forms part of this decision notice.

JUDGE GREG SINFIELD
CHAMBER PRESIDENT
Release date: 1 SEPTEMBER 2021