

**Dated: 22 October 2021**

**Registration Decision: The Self-Sovereignty Faith**

**Board Decision**

1. The role of Te Rātā Atawhai, the independent Charities Registration Board (“the Board”), is to maintain the integrity of the Charities Register through ensuring that entities on the Charities Register qualify for registration. The Board makes its decisions by applying the law to the facts before it. The Board must decline to register an organisation when it does not advance a charitable purpose for the public benefit.
2. The Board’s decision is to decline to register The Self-Sovereignty Faith (“the Society”) because it does not advance exclusively charitable purposes.
3. The Board considers that the Society’s purpose to advance its beliefs is not a charitable purpose to advance religion; specifically, the Society’s doctrines and canons of conduct are not organised in a sufficiently cogent and coherent manner to give effect to a belief system that is capable of being advanced.
4. The Board has carefully considered all of the Society’s submissions and has based its assessment on the application of the law to the facts before it.
5. This decision is separated into the following sections:
  - Background
  - Framework for registration
  - What are the purposes of the Society?
  - The law on advancing religion
  - Does the Society have a charitable purpose to advance religion?
  - Does the Society have a charitable purpose to promote moral and spiritual improvement?
  - Are any non-charitable purposes ancillary?
  - Determination

**Background**

6. The Society applied for registration as a charity under the Charities Act 2005 (“the Act”) on 9 April 2020. Charities Services<sup>1</sup> notified the Society that its rules did not contain identifiable stated purposes and requested further information on the Society’s activities.<sup>2</sup> The Society responded and provided a draft amended charter.<sup>3</sup>

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<sup>1</sup> Charities Services, Ngā Ratonga Kaupapa Atawhai, administers the Charities Act 2005.

<sup>2</sup> Charities Services’ first notice to the Society dated 15 September 2020.

<sup>3</sup> The Society’s submissions dated 23 September 2020, 14 October 2020, 19 October 2020, 11 November 2020, 19 November 2020, 7 January 2021, 15 January 2021 and 15 February 2021.

7. Charities Services then notified the Society that it did not meet requirements because it did not have a charitable purpose to advance religion, and requested further information from the Society.<sup>4</sup> The Society responded, submitting that it advances religion, education and other purposes beneficial to the community.<sup>5</sup>
8. Charities Services sent a third notice to the Society advising that Charities Services continued to consider that the Society did not advance religion or promote moral and spiritual improvement in a charitable manner, and, as its non-charitable purpose was more than ancillary, the Society did not meet registration requirements.<sup>6</sup> Charities Services also invited the Society to provide final submissions before its application was referred to the Board. The Society provided final submissions contending that it advances religion in a charitable manner. These submissions were materially the same as its previous submissions.<sup>7</sup>

### Framework for registration

9. A society qualifies for registration under the Act if it is established and maintained for exclusively charitable purposes and is not carried on for the private pecuniary profit of any individual.<sup>8</sup> Section 5(1) of the Act lists charitable purposes as any charitable purpose that relieves poverty, advances education or religion, or is otherwise beneficial to the community. To qualify, a society must advance a purpose that provides a public benefit previously recognised as charitable by the courts and the purpose must also provide a benefit to the public or a sufficient section of the public.<sup>9</sup> Any non-charitable purposes must be incidental to a charitable purpose.<sup>10</sup>
10. The Board's general approach to assessing charitable purpose follows the guidance of the courts; specifically, the guidance of the High Court in *Re the Society for Anti-Aging Research and the Society for Reversal of Solid State Hypothermia* ("FAAR and FRSSH").<sup>11</sup> Following the three-step process of *Ellis J* in *FAAR and FRSSH*, the Board considers:
  - whether the Society's stated purposes are capable of being charitable;
  - whether the Society's activities are consistent with or supportive of a charitable purpose;
  - if the Society's activities are found not to be charitable, whether they can be said to be merely ancillary to an identified charitable purpose.
11. The Board notes that the Courts have established a specific test for determining whether an organisation advances religion in a charitable manner, discussed at [16]-[21]. This test includes consideration of both purposes and activities, which the Board considers is consistent with the *FAAR and FRSSH* test. The Board has therefore, in this instance, applied

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<sup>4</sup> Charities Services' second notice to the Society dated 22 February 2021.

<sup>5</sup> The Society's submissions dated 21 April 2021 and 24 April 2021.

<sup>6</sup> Charities Services third notice to the Society dated 28 May 2021.

<sup>7</sup> The Society's submissions dated 21 July 2021.

<sup>8</sup> Section 13(1)(b) of the Charities Act 2005 ("the Act").

<sup>9</sup> *Molloy v Commissioner of Inland Revenue* [1981] 1 NZLR 688 (CA).

<sup>10</sup> Section 5(3) of the Act.

<sup>11</sup> *Re the Society for Anti-Aging Research and the Society for the Reversal of Solid State Hypothermia* [2016] NZHC 2328 ("FAAR and FRSSH").

the specific test for whether an organisation advances religion to its assessment of the Society's application.

### **What are the purposes of the Society?**

12. The Board considers that the rules provided in the Society's application do not contain clauses with clearly identifiable stated purposes. The Board has therefore assessed the Society's draft charter, which contains stated purposes. The Society's draft stated purposes are to:<sup>12</sup>
  - Repair the environment by spreading religion;
  - Educate young people;
  - Provide a faith facility for public use; and
  - Provide a community support network.
13. The Board considers that the Society's draft stated purposes are capable of being charitable under the advancement of religion, advancement of education, and other purposes beneficial to the community.
14. The Board considers, however, that the Society's primary purpose is to advance its beliefs. This is because the wording and nature of the draft charter demonstrates that the Society's focus is on advancing its beliefs; for example, clause 5 outlines the Society's beliefs.<sup>13</sup> This is also demonstrated in the Society's submissions; for example, it has submitted that the Society qualifies for "religious status".<sup>14</sup>
15. The Board has therefore considered whether the Society's purpose to advance its beliefs is capable of falling under one of the following charitable purposes:
  - The advancement of religion; and
  - The promotion of moral or spiritual improvement.

### **The law on advancing religion**

16. The courts have considered the definition of religion under charity law, and how religion can be advanced. The cases indicate that there are three separate questions to consider:<sup>15</sup>
  - i. Is the entity's system of beliefs capable of advancing religion?
  - ii. Do the entity's activities advance religion?
  - iii. Does the purpose advance a charitable public benefit at law?
17. The leading New Zealand decision on whether an entity's beliefs are capable of advancing religion is *Centrepoint Community Growth Trust v Commissioner of Inland Revenue*

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<sup>12</sup> The Society's submissions dated 14 October 2020.

<sup>13</sup> The Society's submissions dated 14 October 2020.

<sup>14</sup> The Society's submissions dated 24 April 2021.

<sup>15</sup> This is consistent with the approach taken by the Board in Registration Decision: *Jedi Society Incorporated* (14 September 2015) [www.charities.govt.nz/charities-in-new-zealand/legal-decisions/view-the-decisions/view/jedi-society-incorporated](http://www.charities.govt.nz/charities-in-new-zealand/legal-decisions/view-the-decisions/view/jedi-society-incorporated) ("*Jedi Decision*").

(“*Centrepoint*”).<sup>16</sup> *Centrepoint* affirmed the test<sup>17</sup> of the Australian decision of *Church of the New Faith v Commissioner for Pay-roll Tax (Vic)* (“*Church of the New Faith*”):

“...for the purposes of the law, the criteria of religion are twofold: first belief in a supernatural Being, Thing or Principle; and second, the acceptance of canons of conduct in order to give effect to that belief, though canons and conduct which offend against the ordinary laws are outside the area of any immunity, privilege or right conferred on the grounds of religion.”

18. The High Court in *Centrepoint* also held that there are several factors to assist in determining whether an entity is advancing religion. These included “observances of sacraments, symbols, ceremonies and rituals taking place within the community” and “an ethical code of behaviour”.<sup>18</sup>
19. The Charity Commission for England and Wales (“CCEW”) held that in assessing whether a belief system is capable of advancing religion in a charitable sense, a religion must be a sincere belief system of substance or significance, capable of benefiting society, and having a certain level of cogency, cohesion, seriousness, and importance.<sup>19</sup>
20. In line with New Zealand case law and the decisions of the CCEW, the Board’s approach to determining whether religion is advanced in a charitable manner considers whether a novel set of beliefs constitutes a religion. Applying the law on advancing religion, the Board considers the following characteristics demonstrate a religion:<sup>20</sup>
  - i. A body of doctrines that:
    - a. Concerns the place of humankind in the universe and its relationship with the infinite;
    - b. Goes beyond that which can be perceived by the senses or ascertained through the scientific method; and
    - c. Contains canons of conduct around which adherents are to structure their lives.
  - ii. The doctrines and canons of conduct must also be sufficiently structured, cogent and serious to be capable of advancing religion.

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<sup>16</sup> *Centrepoint Community Growth Trust v Commissioner of Inland Revenue* [1985] 1 NZLR 673 (“*Centrepoint*”).

<sup>17</sup> *The Church of the New Faith v Commissioner for Pay-roll Tax (Vic)* (1983) 49 ALR 65 (“*Church of the New Faith*”) at [136].

<sup>18</sup> *Centrepoint* at 696 to 697. Tomkins J relied on the indicia of a religion held in *Church of the New Faith* and on expert evidence.

<sup>19</sup> Decision of the Charity Commission for England and Wales, Application for registration of The Gnostic Centre (16 December 2009) [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/324274/gnosticdecision.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/324274/gnosticdecision.pdf) (“Gnostic Centre Decision”).

<sup>20</sup> This approach was adopted by the Board in *Registration Decision: TLF Charitable Trust* (10 July 2018) [www.charities.govt.nz/charities-in-new-zealand/legal-decisions/view-the-decisions/view/tlf-charitable-trust](http://www.charities.govt.nz/charities-in-new-zealand/legal-decisions/view-the-decisions/view/tlf-charitable-trust) (“TLF decision”).

21. While the case law suggests these are merely indicia to consider,<sup>21</sup> the Board considers that, in applying the law, it would be difficult for a system of beliefs to qualify as capable of advancing religion unless all the characteristics were met by a belief system.<sup>22</sup>

### **Does the Society have a charitable purpose to advance religion?**

#### *The Society's beliefs*

22. The Society believes Earth is a conscious being and people's "divine path is to attune vibrationally with nature, the planet, and in turn 'Great Spirit'".<sup>23</sup> It seeks to "understand what it is to be human...for the benefit of the large body, the planet, of whom we are cells".<sup>24</sup>
23. The overarching principle of the Society's beliefs appears to be the notion of self-sovereignty.<sup>25</sup> People should maintain complete autonomy of the mind and body to be brought closer to the divine.<sup>26</sup> The Society also draws on already established spiritual and religious concepts, as it determines from time to time.<sup>27</sup>
24. The Society's beliefs are "intentionally broad" and "[aim] beyond orthodoxies".<sup>28</sup> Because its beliefs are broad, there do not appear to be any specific rules for adherents to follow. The only absolute rule appears to be that members should maintain complete personal autonomy in practising the beliefs, and individuals should give effect to the beliefs in whatever manner they determine.

#### *Are the Society's beliefs capable of advancing religion?*

25. Applying the test for whether an organisation advances religion in a charitable sense, the Board considers that the Society's beliefs constitute a body of doctrines that (a) concerns the place of humankind and its relationship with the infinite; (b) goes beyond which that can be perceived by the senses or through scientific method; and (c) contains some canons of conduct by which adherents could structure their lives.
26. The Board considers, however, that the Society's beliefs are not sufficiently structured to be capable of advancing religion.

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<sup>21</sup> *Centrepont* at 695.

<sup>22</sup> *Jedi Decision* at [30].

<sup>23</sup> The Society's submissions dated 21 April 2021.

<sup>24</sup> The Society's submissions dated 24 April 2021.

<sup>25</sup> The Society's name reflects this, and it is listed as one of its beliefs at clause 5.7 of the draft charter.

<sup>26</sup> The Society's submissions dated 21 April 2021.

<sup>27</sup> The Society's submissions dated 21 April 2021 and 24 April 2021.

<sup>28</sup> The Society's submissions dated 21 April 2021.

27. In assessing whether a belief system is capable of advancing religion in charities law, a religion must be a sincere belief system of substance or significance, capable of benefitting society, and having a certain level of cogency, coherence, seriousness and importance.<sup>29</sup>
28. This is not a question of the founder's motive<sup>30</sup> or whether a religion is false,<sup>31</sup> but rather whether a religion is sufficiently structured to advance religion in a charitable manner. Belief systems that are loosely interrelated collections of ideas will not constitute a "religion" in charities law; there must be an organised or integrated system of beliefs for a religion to be recognised.<sup>32</sup>
29. The Board recognises that the Society's beliefs are sincere and serious. It considers, however, that the Society's doctrines and canons of conduct are not organised in a sufficiently cogent and coherent manner to give effect to a belief system that is capable of being advanced.
30. This is because the Society's beliefs are self-professedly, intentionally broad and unstructured; for example, the Society indicated that that it does not wish to classify or label its beliefs any way.<sup>33</sup> The Board considers this demonstrates the Society's beliefs are not sufficiently cogent to be capable of being advanced because they are not clearly definable.
31. The Society applies teachings and practices from other already founded spiritual practices and religions,<sup>34</sup> however, it is unclear how they have been repurposed to give effect specifically to the Society's beliefs and not the belief system they stem from. The Board considers this also demonstrates a lack of structure because it is not possible objectively to determine what practices are connected to advancing the Society's beliefs.
32. Further, the overarching principle of self-sovereignty means that adherents are free to determine their own conduct. The absence of any limitations or directions on conduct means that adherents could advance an amalgam of practices and conduct taken from various pre-existing belief systems, or could carry out any activity whatsoever, and this would be consistent with the Society's beliefs. The absence of limits on adherents' conduct demonstrates an absence of structure, which means the Society does not meet the first step of the test for advancing religion at charities law.
33. The Board considers that the Society has not demonstrated its beliefs constitute a clearly integrated structure to give effect to a belief system that is capable of advancement. Rather, it is a loosely interrelated collection of ideas and spiritual concepts where members are free to apply any practices they choose in whatever manner they see fit. The Board considers this means the Society does not meet the test under charities law for advancement of religion.

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<sup>29</sup> Annex A of *The Advancement of Religion for Public Benefit* (CCEW); Gnostic Centre decision at [34].

<sup>30</sup> *Church of the New Faith* at 141.

<sup>31</sup> *Church of the New Faith* at 150. See also Mason ACJ and Brennan J's statement at 132.

<sup>32</sup> Charity Commission for England and Wales *The Advancement of Religion for Public Benefit*, Annex A [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/358531/advancement-of-religion-for-the-public-benefit.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/358531/advancement-of-religion-for-the-public-benefit.pdf); Gnostic Centre Decision at [34].

<sup>33</sup> The Society's submissions dated 24 April 2021.

<sup>34</sup> The Society's submissions dated 21 April 2021.

34. The Board considers that the Society's beliefs are not capable of advancing religion in a charitable manner. For completeness, the Board has also considered the Society's activities.

#### *The Society's activities*

35. In relation to the second step set out in [16], the Board considers that any activities the Society carries out cannot advance religion because the Society has not established that its beliefs are capable of advancing religion (the first step). For the same reason, the Board has not considered the third step, whether the purpose advances a public benefit, as the purpose is not charitable.
36. The Board notes that some of the Society's activities could be considered consistent with charitable purposes as stand-alone activities; for example, tree-planting activities, an educational programme for kids and making its premises available to community groups. The Board considers, however, that the Society's focus is to advance its beliefs which, as discussed above, are not sufficiently structured to be capable of advancing religion in a charitable manner.

#### *Conclusion*

37. Given the Board's conclusion that the Society's focus is to advance its beliefs, the Board considers that this purpose does not advance religion in a charitable sense because the Society's beliefs are not structured enough to be capable of advancement.

#### **Does the Society have a charitable purpose to promote moral or spiritual improvement?**

38. While an entity may not meet the test for religion in law, in some cases it may qualify as promoting moral or spiritual improvement.<sup>35</sup> The courts have held that while the purpose may fall under other purposes beneficial to the community, "not all objects which tend to promote the moral improvement of the community are charitable".<sup>36</sup> Moreover, the Supreme Court in *Re Greenpeace* confirmed "it will be difficult to show that the promotion of an idea is itself charitable".<sup>37</sup>
39. The Board considers that an entity which promotes moral or spiritual improvement in a charitable manner has identifiable formal content with the following characteristics:
- addresses weighty and substantial aspects of human life and behaviour;
  - relates to moral or spiritual systems, and their application to human life;
  - can be assessed and applied within the community according to individual choice and judgement; and

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<sup>35</sup> Gnostic Centre Decision at [50]-[70].

<sup>36</sup> *Barralet v Attorney-General* [1980] 3 All ER 918 at 926 per Dillon J.

<sup>37</sup> *Re Greenpeace* at [116].

- the beneficial nature of the content should be shown (and demonstrated to be accepted) on the basis of a consensus of opinion amongst people who are informed, fair-minded and free from prejudice or bias.<sup>38</sup>
40. The content must also be sufficiently structured, cogent and serious to be capable of improving moral or spiritual improvement to the community. Mere opinions will not qualify; however, the promotion of narrower ideas may be charitable if they are a means to advance a charitable end.<sup>39</sup> Unlike in the advancement of religion where public benefit is presumed, the entity must also demonstrate there is charitable public benefit as a matter of fact.
41. Applying the analysis of whether the Society's beliefs are capable of advancing religion, the Board considers that the Society's beliefs may have characteristics of promoting moral or spiritual improvement. For the reasons outlined above, however, the Board considers that the Society's beliefs are not organised in a manner that is sufficiently structured to be capable of improving the moral or spiritual improvement of the public.<sup>40</sup>

#### **Are any non-charitable purposes ancillary?**

42. For the reasons discussed above, the Board considers that the Society's purpose is to advance its beliefs, and that this purpose is not capable of being charitable. As this purpose is the Society's focus, the Board considers this purpose cannot be considered ancillary.

#### **Determination**

43. The Board determines that the Society is not qualified for registration as a charitable entity because it is not established for exclusively charitable purposes as required by section 13(1) of the Act.
44. The Board considers that the Society has a purpose to advance its beliefs, and this purpose is not capable of falling under either the advancement of religion or the promotion of moral or spiritual improvement for the public. This purpose is the focus of the Society, therefore, cannot be considered an ancillary purpose.
45. The decision of the Board is therefore to decline to register the Society as a charity, pursuant to section 19 of the Act.

Signed for and on behalf of the Board



Gwen Keel

Date 22 October 2021

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<sup>38</sup> The Charities Commission of England and Wales specifically refer to: *National Anti-Vivisection Society v Inland Revenue Commission* [1948] AC 31, citing Lord Wright at 49. The issue is given particular weight in the Gnostic Centre decision at [50]-[57].

<sup>39</sup> *Greenpeace* at [114]-[116].

<sup>40</sup> As discussed at [31]-[35].