

Dated: 9 July 2018

Registration Decision: TLF Charitable Trust (TLF55221)

Board Decision

1. The role of 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 based on the facts before it and applies the law including relevant case law. The Board must decline to register an organisation when it does not advance a charitable purpose for the public benefit.¹
2. The Board’s decision is to decline to register the TLF Charitable Trust (“the Trust”) because it does not advance exclusively charitable purposes.
3. The Board considers that the Trust’s primary purpose is to promote the *Shoho* teachings to the public. The Board considers that the Trust is not advancing religion in a charitable manner, or any other charitable purpose.
4. Following the three-step process of Ellis J in *Re the Foundation for Anti-Aging Research and the Foundation for Reversal of Solid State Hypothermia* (“FAAR and FRSSH”)² the Board has considered:
 - Whether the Trust’s stated purposes are capable of being charitable
 - Whether the Trust’s activities are consistent with or supportive of a charitable purpose
 - If the Trust’s activities are found not to be charitable, whether they can be said to be merely ancillary to an identified charitable purpose
5. The Board has carefully considered all of the Trust’s submissions received before and after the Trust was given notice that the application might be declined. The Board has also considered the information on activities collected by Charities Services.³ Charities Services recommended to the Board on 12 June 2018 that the Board decline the Trust’s application. The Board has based its conclusions on the facts before it and the application of the law.
6. This decision is separated into the following sections:
 - Background
 - What are the purposes of the Trust?
 - Does the Trust have a charitable purpose to advance religion?

¹ Section 19(4) of the Charities Act 2005 (“the Act”).

² *Re the Foundation for Anti-Aging Research and the Foundation for the Reversal of Solid State Hypothermia* [2016] NZHC 2328 (“FAAH and FRSSH”).

³ Charities Services, Ngā Rātonga Kaupapa Atawhai, is part of the Department of Internal Affairs, and administers the Act.

- Does the Trust have a charitable purpose to promote moral or spiritual improvement?
- Does the Trust have a charitable purpose to advance education?

Background

7. The Trust was established in New Zealand on 7 September 2016 and applied for registration as a charity under the Charities Act 2005 (“the Act”) on 2 March 2017.
8. Charities Services requested information from the Trust on how it intended to carry out its purposes.⁴ The Trust submitted it had charitable purposes for the advancement of religion, the advancement of moral and spiritual improvement and the advancement of education.⁵
9. The Trust informed Charities Services that it was currently translating its collection of *Shoho* books into English and preparing materials for its website.⁶ The Trust’s *Shoho* books were written by Yuko Chino following a vision she had in 1977.⁷ The Trust indicated that the translation of the *Shoho* books would be the foundation for the Trust to promote the *Shoho* beliefs in the community and in schools and tertiary institutions.⁸ The Trust is holding weekly meetings on *Shoho* to answer questions from the public and provide updates from its headquarters in Japan.⁹
10. Charities Services notified the Trust that it did not meet registration requirements as its purposes were not exclusively charitable.¹⁰ The Trust provided information about its activities, draft amended purposes and made submissions.¹¹ On 19 January 2018 the Trust was advised that the application was being referred to the Board for a decision.¹²

What are the purposes of the Trust?

11. The Trust’s stated purposes are contained in clause 2.1 of its rules document:

2. PURPOSE

⁴ Charities Services’ emails to the Trust dated 20 April 2017, 29 August 2017 and 19 January 2018.

⁵ The Trust’s submissions to Charities Services dated 12 March 2018.

⁶ The Trust’s submissions to Charities Services dated 12 March 2018.

⁷ The Trust’s website <http://www.lr-p.com/staging/en/%e5%a4%a9%e4%b8%8a%e7%95%8c%e3%81%8b%e3%82%89%e3%83%a1%e3%83%83%e3%82%bb%e3%83%bc%e3%82%b8-english/> [accessed 24/04/2018].

⁸ The Trust’s submissions to Charities Services dated 22 May 2018

⁹ The Trust’s submissions to Charities Services dated 12 March 2018.

¹⁰ Charities Services’ notices to the Trust dated 29 August 2017, 13 November 2017 and 19 January 2018.

¹¹ The Trust’s submissions to Charities Services dated 26 October 2017, 12 December 2017 and 12 March 2018.

¹² Charities Services’ email to the Trust dated 19 January 2018.

- 2.1 The purpose of the Trust will be to assist through promotion, education and training in New Zealand education agencies and the community, including schools early childhood education centres and community based groups, develop as communities in which natural scientific practices to promote spirituality - Shoho the true law - are known, promoted and lived.
12. At clause 2.2 of the Trust's rules, the Trust lists the activities the Trust will do to facilitate this purpose. For example, the Trust indicates it will engage in publishing and printing, education, and physical and mental healthcare activities.
13. The Trust provided draft amended purposes, when it was notified that its stated purposes did not meet registration requirements.¹³ These are as follows:
- The Trust is established to carry out within New Zealand the following charitable objectives:
- a) To promote and assist in providing information on *Shoho* teachings to general public.
 - b) To benefit the community by providing meeting venues, facilitating scheduled group discussion and functions for those willing to study.
 - c) To assist in the education and activities for purification of natural environment in order to carry out the sustainability of natural resource for future generations.
 - d) To help networking with supporters and participants as well as groups from overseas in order to adhere to and fulfil those objectives referred to in (a), (b) and (c) above.
14. The Trust submits that its stated purposes are analogous to the following purposes previously accepted as charitable by the courts:¹⁴
- a) The advancement of religion:
 - b) The advancement of moral and spiritual improvement; and
 - c) The advancement of education.
15. Applying the first step of Ellis J's three step process in *FAAR and FRSSH*¹⁵ the Board considers that the Trust's stated purposes may be capable of being charitable for the advancement of religion, moral and spiritual improvement, and the advancement of education. Applying the second step of Ellis J's process the Board has considered whether the Trust's activities are consistent with or supportive of these charitable purposes. Applying the third step of Ellis J's process the Board has considered whether any non-charitable activities are merely ancillary to charitable purposes.

Does the Trust have a charitable purpose to advance religion?

¹³ Draft amended purposes provided to Charities Services on 26 October 2017.

¹⁴ The Trust's submissions to Charities Services dated 22 May 2017.

¹⁵ *FAAR and FRSSH* at [88].

16. The Trust submits that it has a charitable purpose to advance religion through promoting the *Shoho* teachings to the community.
17. The Courts have considered the definition of religion under charity law, and how religion can be advanced, on a number of occasions. The cases indicate that there are three separate questions to be asked:¹⁶
 - Is the system of beliefs of the entity capable of advancing religion?
 - Do the entity's activities advance religion?
 - Does the purpose advance a charitable public benefit at law?

(i) Is the system of beliefs of the Trust capable of advancing religion?

18. The leading New Zealand decision on whether an entity advances religion is *Centrepoint Community Growth Trust v Commissioner of Inland Revenue* ("*Centrepoint*").¹⁷
19. *Centrepoint* affirmed the following test¹⁸ from the *Church of the New Faith v Commissioner for Pay-roll Tax (Vic)* ("*Church of the New Faith*") decision:¹⁹

"...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 of conduct which offend against the ordinary laws are outside the area of any immunity, privilege or right conferred on the grounds of religion."
20. The High Court in *Centrepoint* also held that there are a number of elements of religion 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."²⁰

¹⁶ This is consistent with the approach taken by the Board in Registration decision: *The Jedi Society Incorporated* (JED49458).

¹⁷ *Centrepoint Community Growth Trust v Commissioner of Inland Revenue* [1985] 1 NZLR 673 ("*Centrepoint*").

¹⁸ *The Church of the New Faith v Commissioner for Pay-roll Tax (Vic)* (1983) 49 ALR 65 ("*Church of the New Faith*") at [136].

¹⁹ The *Church of the New Faith* decision was approved in the United Kingdom Supreme Court in the case of *R (on the application of Hodkin and another) v Registrar General of Births, Deaths and Marriages*.

²⁰ *Centrepoint* at [696] to [697]. Tomkins J relies on the indicia of a religions held by Wilson and Deane in the *Church of the New Faith Decision* and expert evidence.

21. The Charity Commission for England and Wales held that in assessing whether a belief system is capable of advancing religion in a charitable manner, 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.²¹ The belief system must also promote an identifiable, positive beneficial or ethical framework.
22. In line with the New Zealand’s case law and decisions of the Charities Commission of England and Wales, when determining whether a novel set of beliefs is a religion the Board considers that the following characteristics demonstrate a religion:²²
- A body of doctrines that:
 - concerns the place of humankind in the universe and its relationship with the infinite
 - goes beyond that which can be perceived by the senses or ascertained through the scientific method and
 - contains canons of conduct around which adherents are to structure their lives
 - The doctrines and canons of conduct must also be sufficiently structured, cogent and serious so as to be capable of advancing religion
23. While the case law suggests that these are merely “indicia” to consider, the Board considers that it would be difficult for a system of beliefs to qualify as capable of advancing religion unless all of the characteristics were met by a belief system.²³

The Trust’s body of doctrines

24. The Board considers that the *Shoho* teachings may contain a body of doctrines that concerns the place of humankind in the universe and its relationship with the infinite. The Board also considers that the content of the *Shoho* teachings goes beyond what can be perceived by the senses are ascertained through scientific method.

²¹ Decision of the Charity Commissioners for England and Wales, Application for registration of the Temple of the Jedi Order (16 December 2016): <https://www.gov.uk/government/publications//the-temple-of-the-jedi-order>; Decision of the Charity Commissioners for England and Wales, Application for registration of the Gnostic Centre (16 December 2009) (“Gnostic Centre Decision”): https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/324274/gnosticdec.pdf.

²² This was the approach adopted by the Board in Registration decision: The Jedi Society Incorporated (JED49548) (14 September 2015).

²³ *Centrepoint* at 695.

25. The Board notes that the Trust submits that *Shoho*²⁴ books contain teachings on moral principle, spiritual enlightenment, the laws of nature, and the universe.²⁵ The Trust submits that they have a belief in a supreme being, Lord El Lanti. The *Shoho* books contain Lord El Lanti's teachings which were provided to Yuko Chino through divine inspiration.²⁶
26. The Board considers, however, that the Trust has not provided sufficient information to show a body of doctrines containing canons of conduct around which adherents are to structure their lives. Specifically, the Trust has only provided vague statements about the content of the *Shoho* teachings in its submissions and not provided the details of any specific teachings. There is no detail, for example, on any observances of sacraments, symbols, ceremonies and rituals or an ethical code of behaviour.
27. Charities Services requested information on the Trust's codes of conduct and doctrines²⁷ and notified the Trust that it had not provided sufficient information.²⁸ Despite being provided with further opportunities to respond the Trust did not provide this information.²⁹ Without this information, the Board is unable to assess if there are canons of conduct in the *Shoho* teachings and whether the teachings are sufficiently structured, cogent or comprehensive so as to be capable of advancing religion.

(ii) Do the Trust's activities advance religion

28. The Trust submits that *Shoho* followers are encouraged to study the *Shoho* works, follow the teachings, and apply them in their everyday lives for the purposes of self-enlightenment. The Trust submits that studying *Shoho* and putting it into practice in one's daily life will "allow one to lead a worthwhile life as a human being" and "give a sense of peace and harmony, as well as hope and joy in life."³⁰
29. The Board considers that the Trust has not demonstrated that its activities are advancing religion. The Trust's activities do not include religious gatherings for the observance of sacraments, symbols or ceremonies and rituals.³¹ The Trust has not provided details of the teachings its followers are encouraged to study and put it into practice.

²⁴The *Shoho* teachings are set out in the books of Yoko Chino. The Trust is currently translating Yoko Chino's books from Japanese into English so they can be displayed on its website. The Trust's website currently displays an extract from Yuko Chino's "Compassion and Love" book entitled "Message from Heaven from Archangel Gabriel." <http://www.lr-p.com/staging/en/%e5%a4%a9%e4%b8%8a%e7%95%8c%e3%81%8b%e3%82%89%e3%83%a1%e3%83%83%e3%82%bb%e3%83%bc%e3%82%b8-english/> [accessed 9 July 2018];

²⁵ The Trust's submissions to Charities Services dated 22 May 2017.

²⁶ See also: the Trust's website <http://www.lr-p.com/staging/en/%e5%a4%a9%e4%b8%8a%e7%95%8c%e3%81%8b%e3%82%89%e3%83%a1%e3%83%83%e3%82%bb%e3%83%bc%e3%82%b8-english/> [accessed 24 April 2018].

²⁷ Charities Services letter to the Trust dated 29 August 2017.

²⁸ Charities Services letter to the Trust dated 13 November 2017; Charities Services email dated 29 November 2017.

²⁹ Charities Services' email to the Trust dated 13 November 2017.

³⁰ The Trust's submissions to Charities Services dated 22 May 2017.

³¹ *Centrepoint* at 696 to 697.

30. The Trust submits that its current focus is to translate the *Shoho* works from Japanese into English and make them available on its website.³² The Trust submits it will hold weekly meetings about the *Shoho* teachings.³³ It will promote the *Shoho* teachings by visiting community centres, libraries or citizens advisory centres in Auckland.³⁴ The Trust submits that it teaches a method of meditation and encourages its members to pray for others in their own time and space.³⁵
31. The Board considers that the weekly meetings, mediation and other activities will not advance religion in the absence of canons of conduct around which adherents are to structure their lives.³⁶
32. The Board considers that it cannot determine that the Trust's activities are advancing religion when the Trust has not demonstrated that *Shoho* is a system of beliefs capable of advancing religion.³⁷

(iii) Does the purpose advance a charitable public benefit at law?

33. Where it can be established that an entity is advancing religion, there is a presumption of public benefit. However, in this case, the Board does not consider the Trust has demonstrated its system of beliefs is capable of advancing religion in a charitable manner, and so the presumption of public benefit is rebutted.

Does the Trust have a charitable purpose to promote moral or spiritual improvement?

34. The Trust submits that the promotion of *Shoho* in the community will advance moral and spiritual improvement.³⁸ The Trust submits that the *Shoho* teachings can be "used by individuals to resolve issues in their everyday lives and can be used in Society generally to resolve divisions and conflict."³⁹ The Trust submits that studying *Shoho* and putting it into practice in one's daily life will "allow one to lead a worthwhile life as a human being and give "a sense of peace and harmony, as well as hope and joy in life."⁴⁰
35. The Board recognises that purposes to promote moral and spiritual improvement of the community are capable of being charitable under the fourth head of charity (other purposes beneficial to the community).⁴¹

³² The Trust's submissions to Charities Services dated 22 May 2018.

³³ The Trust's submissions to Charities Services dated 26 October 2017. The Trust has indicated that these will "mainly be in a format of group discussion about *Shoho*, questions and answers, hearing the latest of News of what is happening in overseas activities."

³⁴ The Trust's submissions to Charities Services dated 12 March 2018.

³⁵ The Trust's submissions to Charities Services dated 12 March 2018.

³⁶ The Board applies the approach of the Charities Commission of England and Wales in this respect cited at the Gnostic Centre decision at [45].

³⁷ The Gnostic Centre decision at [45].

³⁸ The Trust's submissions to Charities Services dated 22 May 2017.

³⁹ The Trust's submissions to Charities Services dated 22 May 2017.

⁴⁰ The Trust's submissions to Charities Services dated 22 May 2017.

⁴¹ Gnostic Centre Decision at [50-57]; and Church of Scientology Decision at 26-36.

36. The Board considers the following are characteristics of an entity that promotes moral and spiritual improvement in a charitable manner:⁴²

Identifiable formal content that:

- addresses weighty and substantial aspects of human life and behaviour
 - relates to moral or spiritual systems, and their application to human life
 - can be accessed and applied within the community according to individual choice and judgement
 - 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 bias⁴³
37. The content must also be sufficiently structured, cogent and serious to be capable of improving the moral or spiritual welfare of the community. Unlike in the advancement of religion, where public benefit is presumed, an entity must demonstrate public benefit as a matter of fact.
38. The Board considers that the Trust has not provided enough information about its moral or spiritual system to show that the *Shoho* belief system is sufficiently structured, cogent or comprehensive to demonstrate it can improve the moral or spiritual welfare of the community.
39. As discussed above, in relation to the advancement of religion, Charities Services requested information on the *Shoho* teachings⁴⁴ and notified the Trust that it had not provided sufficient information to demonstrate that the Trust advanced religion.⁴⁵ The Trust provided a response⁴⁶ but this response did not demonstrate that the Trust advances religion in the charitable sense.

Does the Trust have a charitable purpose to advance education?

40. The Trust submits that it has a charitable purpose to advance education through translating the *Shoho* teachings into English and promoting the *Shoho* teachings to the community.⁴⁷ In the future, it may prepare study materials and learning programmes and approach schools, tertiary institutions or other educational institutions to integrate these into the study curriculum, or build its own private institution specialising in *Shoho* learning.⁴⁸

⁴² This was the approach adopted by the Board in Registration decision: The Jedi Society Incorporated (JED49548) (14 September 2015).

⁴³ 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. This issue is given particular weight in the Gnostic Centre decision at [50-57].

⁴⁴ Charities Services letter to the Trust dated 29 August 2017.

⁴⁵ Charities Services letter to the Trust dated 13 November 2017; Charities Services email dated 29 November 2017.

⁴⁶ The Trust's submissions to Charities Services dated 12 December 2017.

⁴⁷ The Trust's submissions to Charities Services dated 22 May 2017.

⁴⁸ The Trust's submissions to Charities Services dated 22 May 2017.

41. The advancement of education falls within the description of charitable purpose at section 5 of the Act, and is capable of being charitable. The most recent New Zealand decision on whether an entity advances education is *FAAR* and *FRSSH* which applies the summary of the law from *Re Collier*.⁴⁹ In *Re Collier*, Hammond J stated that for research to qualify as educational it must confer a public benefit, through assisting the training of mind, or the advancement of research. Propaganda or cause under the guise of education was not sufficient and the work must reach some minimum standard.⁵⁰
42. Where it is established that an entity has a purpose to advance education, it is presumed this will lead to the benefit to the public.⁵¹ *Re Collier* and *FAAR* and *FRSSH* confirm that although there is wide scope to what can be educational in charities law there are limits.
43. The education must be sufficiently structured to assist in the training of the mind, or advancement of research, and the compiling of facts already in the public domain will not amount to research.⁵² The provision of materials or information by which people might be educated is not sufficient to advance education.⁵³
44. Further, purposes to promote a point of view are not educational.⁵⁴ The Supreme Court distinguished between an organisation that advances education objectively, and an organisation that promotes a cause.⁵⁵ The Board considers that in order for a purpose to advance education, the information must be presented in a balanced, objective and neutral manner so that the public can form a view themselves, rather than expressing a one-sided perspective intended to persuade the public to a particular point of view.⁵⁶ The Board considers that an organisation that promotes a point of view must demonstrate that the cause itself is consistent with, or supportive of, a charitable purpose.

Do the Trust's activities advance education in a charitable manner

45. The Board considers that the Trust does not have a purpose to advance education as the Trust has not provided sufficient information in its submissions to demonstrate that its education will be sufficiently structured to assist the training of the mind or advance research.
46. The Board also considers that the *Shoho* teachings are not presented to the public in an objective manner, but rather are promoting points of view based on the *Shoho* teachings.

⁴⁹ *FAAR and FRSSH* at [56]; *Re Collier* [1998] 1 NZLR 81 (HC) at 91-92

⁵⁰ *Re Collier* at 91-92.

⁵¹ *FAAR and FRSSH* at [67].

⁵² See for example: *Vancouver Society of Immigrant and Visible Minority Women v Minister of National Revenue* [1999] 1 SCR 10 (1999) 169 DLR (4th) 34 at [171], adopted by Ronald Young in *Re Draco Foundation (NZ) Charitable Trust* HC WN CIV-2010-485-1275 [3 February 2011] at [75]

⁵³ *Vancouver Society* cited in *Re Draco* at [75].

⁵⁴ *Greenpeace* at [61] and [98]; *Aid Watch Incorporated v Commissioner of Taxation* [2010] 241 CLR 539 at [62] and [84].

⁵⁵ *Greenpeace* at [103]; *Aid/Watch* at [62] and [84].

⁵⁶ *Greenpeace* at [64].

47. The Board considers that promoting the points of view based on the *Shoho* teachings does not advance religion, moral and spiritual improvement of the community, or any other charitable purpose, for the reasons discussed in this paper.

The ancillary test

48. The third step of Ellis J's process considers whether any non-charitable activities are merely ancillary to an identified charitable purpose. As discussed above, the Board does not consider that the Trust advances any identified charitable purposes.

Determination

49. The Board determines that the Trust 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. The Board considers that the Trust is not advancing religion in a charitable manner, nor advancing any other charitable purpose.
50. The decision of the Board is therefore to decline to register the Trust as a charity, pursuant to section 19 of the Act.

Signed for and on behalf of the Board


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Roger Holmes Miller

9th July 2018
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Date