

CHARITY COMMISSION FOR ENGLAND AND WALES

PRESTON DOWN TRUST

APPLICATION FOR REGISTRATION OF THE PRESTON DOWN TRUST

DECISION OF THE COMMISSION

3 January 2014

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Introduction

1. This document is divided into the following sections
 - Background
 - Decision
 - The issues for consideration
 - The legal framework for consideration of the issues
 - PDT and the PBCC
 - Evidence considered by the Commission
 - Conclusion

Background

2. The trustees of the Preston Down Trust (“PDT”) applied to be entered onto the register of charities on 18 February 2009. This application was made as a precursor to similar applications to be made in due course by the trustees of other meetings halls held for the purposes of the Plymouth Brethren Christian Church (“PBCC”) and, as such, was seen as a test case for other Plymouth Brethren meetings halls.
3. The Charities Act 2006 (“2006 Act”)¹ provided that, to be charitable, a body must be established for a purpose falling within the descriptions of purposes set out in the 2006 Act and must meet the public benefit requirement. Public benefit was defined by reference to case law, as currently understood, except that no purpose falling within a description of purpose was to be presumed to be for the public benefit. This raised considerable doubt about how the law on public benefit should be applied in relation to certain of the charitable purposes.
4. As a result, the Attorney General (“AG”) took two References, pursuant to the special reference procedure set up by the 2006 Act, to seek clarity on the law in relation to the public benefit requirement, both of which were heard in the Upper Tribunal (“UT”). These References were (i) with regard to the advancement of education in the context of fee charging independent schools (*ISC v Charity Commission*² (“ISC Case”) and (ii) with regard to the relief of poverty amongst a restricted beneficiary class³ (“Poverty Reference”). The Commission needed to wait for the outcome of these References, as they would have an impact on its decision in this case; the decision in the latest of these was published in February 2012. In addition, in view of the legal uncertainties the Commission had raised with the AG the possibility of him taking a Reference in the Tribunal to seek clarity in the law relating to the public benefit requirement for the advancement of religion, having regard to the circumstances of PDT. The Solicitor General (SG) responded in March 2011 to the effect that given the legal uncertainties, he would consent to a Reference being made in this respect, but to be taken by the Commission. However, the SG also indicated that an

¹ now consolidated in the Charities Act 2011 (“2011 Act”)

² [2011] UKUT 421 (TCC)

³ FTC/84/2011

alternative way to proceed would be for the Commission, if it had real doubts as to whether the test for registration as a charity was met, to reject the specific application for registration so that the issues could be considered, on the particular facts, by the Tribunal on appeal. Discussions with PDT's legal advisers continued throughout this period; PDT's legal advisers, although arguing for registration, acknowledged that any lack of clarity in the law in relation to PDT's application for registration could be usefully clarified through a Reference.

5. In the event, the Commission decided not to proceed by way of a Reference, but, following the alternative approach referred to by the SG took a decision by way of rejection of the application for registration by the trustees of the PDT, given that the charitable status of PBCC was fact specific in relation to their doctrines and practices. This approach enabled the case to be heard by way of appeal in the First-tier Tribunal (Charity) ("FTT"). The Commission's decision (the "2012 Decision") was set out in its letter of 7 June 2012 and was taken on the basis that it was not satisfied it was able to determine conclusively that the doctrines and practices of the PBCC as practised by PDT met the public benefit requirement in charity law and, consequently, that PDT was not established for exclusively charitable purposes for the public benefit.
6. In summary, the Commission decided in the context of the current uncertainties in the law, that PDT and PBCC had not demonstrated that they had sufficient beneficial impact on the wider community to meet the public benefit requirement to be a charity. The Commission (i) was not satisfied that the access to religious services was sufficiently open to the public and (ii) thought that the religious doctrines and practices of PBCC limited the engagement of PDT with the community beyond the Brethren themselves and had a limited beneficial impact on the wider community. The Commission was also generally aware of allegations with regard to detriment and harm which might militate against public benefit, but had no direct evidence of this and therefore did not take this into account in its 2012 Decision.
7. PDT appealed to the FTT on 19 June 2012. The Horsforth Gospel Hall Trust (registered charity number 700960), a PBCC trust with identical objects, joined the appeal as persons who are or may be affected by the decision.
8. Shortly after the directions hearing in December 2012 and the filing by both parties of the Statements of Case in the FTT, a stay in the proceedings was requested by PDT, with a view to saving further significant legal costs. The parties agreed with the consent of the FTT and support of the AG to the stay in the proceedings to see whether there was an alternative way to deal with the issues outside of the Tribunal process.
9. In agreeing to PDT's request, the Commission was clear that its preference was that the matter be dealt with authoritatively and independently in the FTT. However, as with any litigation conducted at public expense, the Commission recognised its responsibility to explore any suitable alternative to Tribunal proceedings. The Commission also confirmed its view that, in general, the FTT is the right and proper forum for decisions of the Commission to be considered on appeal.
10. Since the 2012 Decision and as a result of continuing discussions with PDT's legal advisers, the Commission has received a considerable body of evidence and submissions from PDT seeking to demonstrate how the public benefit requirement is met. The Commission has also received unsolicited evidence from many concerned individuals, including former Brethren, who assert that the

doctrines and practices of the PBCC are inimical to charity. The Commission has therefore been able to consider both sides of the argument relating to benefit and disbenefit.

11. The Commission has also considered independent expert evidence relating to the doctrines and practices of the PBCC.
12. The discussions between legal advisers have focussed on the willingness of PDT to make changes to ensure that PDT is charitable and meets the public benefit requirement. In particular, the practices of the PDT have evolved to some extent and the PDT has expressed a willingness to declare more clearly and transparently its core doctrines and how it practises its faith in revised governing documents which are binding on the trustees of the PDT.

Decision

13. In considering this matter further, the Commission has, as the Tribunal would have done, considered the application for registration afresh. In particular, it has taken into account evidence which was not available to the Commission when it made its 2012 Decision.⁴ The Commission has given full and careful consideration to this evidence, comprising comprehensive and detailed information submitted by PDT and the PBCC in support of its application; evidence provided by those members of the public who objected to the registration of PDT as a charity; and independent expert evidence as to the nature of the doctrines and religious practices of the Brethren.
14. The Commission is prepared to register PDT on the basis of an application for registration based on a Deed of Variation, a draft of which is annexed to this Decision. This Deed of Variation varies the original trust deed as previously varied and declares new trusts which contain, as an integral part of the trusts, Schedules relating to (i) a Statement of the Core Doctrine of the Brethren and (ii) Faith in Practice⁵. This documentation provides a framework for the future administration of the trusts in a way which is charitable and which is binding on the trustees.
15. The Commission is satisfied that, following adoption of this new documentation, PDT is established for exclusively charitable purposes for public benefit and can be entered onto the register of charities. The Commission is also satisfied that on the basis of this documentation, the Commission will be able to regulate PDT and other PBCC meeting halls against these trusts. If the trustees *do not comply* with the trusts, the Commission will be able to regulate on the basis of a breach of trust. If the trustees *are unable to comply* with and carry out the trusts, the Commission may regulate on the basis that a *cy-près* occasion has arisen and the trust property will be applied for charitable purposes of a similar nature.
16. The detailed reasoning is set out below.

The issues for consideration

⁴Section 319(4) Charities Act 2011 & E.I. *Du Pont Nemours & Co v S.T. Du Pont* [2006] 1 WLR 2793

⁵ Faith in Practice is discussed at Paragraph 94 below

17. The issues to be determined are:

Is PDT a charity, being established for exclusively charitable purposes for public benefit as defined by section 2 of the 2006 Act⁶? That is to say:

- i. Do the purposes of PDT fall within the description of purposes set out in section 2 (2) of the 2006 Act and, in particular, within section 2 (2) (c), the advancement of religion?
- ii. Are the purposes for the public benefit?

18. This requires consideration of the following issues:

- What are the purposes of PDT?
- Are those purposes exclusively charitable or are they indefinite and not limited to charity?
- Are the purposes of PDT for the public benefit, as that term is understood for the purposes of the law relating to charities in England and Wales, namely:
 - Is the nature of the purposes themselves such as to be a benefit to the community?
 - Are those who may benefit from the carrying out of the purposes sufficient so as to constitute what is described in case law as "*the community or an appreciably important class of the community*".
 - Are there elements of detriment, harm, public disadvantage or disbenefit which outweigh or militate against such public benefit as might otherwise be afforded by the purposes of PDT?

The legal framework for the consideration of the issues

(i) The approach to consideration of the issues

19. The Commission's approach to determining the charitable status of PDT has followed the approach set out by the UT in the context of the law post the 2006 Act. In summary, the 2006 Act provides in relation to the description of purposes that, where any term has a particular meaning under charity law, that term is to be taken as having the same meaning where it now appears in those descriptions (section 2 (5) 2006 Act). In relation to the public benefit requirement, it was provided that it is not to be presumed that a purpose of a particular description is for the public benefit (section 3 (2) 2006 Act) and that the reference to public benefit in the legislation is a reference to the public benefit as that term is understood in charity law. In commenting on the legislation, the UT said in the *ISC Case* at Paragraph 82:

"We emphasise here that the 2006 Act is concerned with establishing whether a particular institution is a charity. Thus:

The starting point is to identify the purpose (or purposes if there is more than one) of the institution. This will be a particular purpose in the context of the constitution of the institution. Let us call this "the Particular Purpose". The Particular Purpose is the "purpose" referred to in the opening words of section 2(1) in the phrase "...is a purpose which".

The Particular Purpose is a charitable purpose if (a) it falls within section 2(2) and (b) is for the public benefit.

⁶ Section references have been kept as references to the 2006 Act

The Particular Purpose falls within section 2(2) if it falls within any of the categories listed in section 2(2).

The Particular Purpose is for the public benefit if it falls within section 3(3). The question then is whether the Particular Purpose itself is for the public benefit, the answer to which is obtained by ascertaining what the position would have been prior to the 2006 Act (subject to the effect of section 3(2) concerning presumptions). The question is not whether the categories in section 2(2) are inherently or necessarily for the public benefit: the focus is on the particular purpose of a particular institution. The relevance of section 2(2) is that it presents a hurdle: the purpose must fall within one of the categories and if it does not the question of public benefit is not relevant”.

And at Paragraph 84

“In our view, the focus of section 3(2) is different. It is designed to prevent any presumption which would result in any particular purpose (such as the Particular Purpose we have referred to) being recognised as charitable without it needing to be established that the Particular Purpose, in the context of the particular institution concerned, is for the public benefit. Returning to the example of religion, not only is there to be no presumption that religion generally is for the public benefit (the particular description within section 3(2) then being religious purposes) but there is no presumption at any more specific level and thus no presumption that Christianity or Islam are for the public benefit and no presumption that the Church of England is for the public benefit.

That is not to say that evidence needs to be brought in every case about the public benefit which a particular purpose achieves in the context of the particular institution concerned, as will be seen when we address the context of education.”

20. Consequently since the 2006 Act, the test of public benefit means that an assessment of public benefit must be made in each individual case and that in some cases evidence will be required to be brought about the public benefit that is achieved by the organisation. In such a case, the issue of public benefit is to be decided on the basis of the evidence.⁷ Accordingly, in this case where the organisation is established to propagate a particular doctrine, the onus is on that organisation, the PDT, to demonstrate the impact of its purposes on the public and that the impact is beneficial.⁸ It is for PDT to establish its charitable status.⁹ Although the case law pre-existing the implementation of the 2006 Act must be considered, the law is not static and the law relating to public benefit has to be considered in a modern context.¹⁰

(ii) Taking activities into account in determining charitable status

21. The Commission considers that where purposes are ambiguous or otherwise unclear, the Commission may, like the court, have regard to extrinsic evidence in the form of evidence of actual and proposed activities to determine the precise scope of the purposes and whether they are charitable or not. This follows the approach of the UT in the case of *Helena Partnerships Ltd v HM Revenue and Customs Commissioners*.¹¹

⁷ Slade J in *McGovern v Attorney General* [1982] Ch 321 at 333-4 said “The question whether a purpose will or may operate for the public benefit is to be answered by the court forming a view on the evidence before it.”

⁸ *Re Coats Trusts v Gilmour* [1948] 1 Ch 340; 347 per Lord Greene

⁹ *ISC v Charity Commission* [2011] UKUT 421 (TCC) paragraph 111

¹⁰ *ISC v Charity Commission* [2011] UKUT 421 (TCC) paragraph 23

¹¹ [2011] STC 1307 Paragraph 20: “In accordance with well established principle, the motives and intentions of the founders of HHL are irrelevant to the exercise of construction. Further, it is not generally relevant to consider evidence about the activities of a company in construing its memorandum and articles of association, any more than it is permissible in the case of a

22. In particular, as far as the question of public benefit itself is concerned, this was recently reaffirmed by the FTT in *Full Fact v Charity Commission*, where it was said that it is:

*"Difficult to see how any analysis of public benefit ...could take place without some understanding and assessment of its proposed activities..."*¹²

23. The Commission considered that it was appropriate in the circumstances of this case, notwithstanding the Christian nature of the PDT, to take into account the doctrines and practices of the PDT and the extent to which these impacted on the wider community. The law on public benefit requires that the benefit be one which is both demonstrable and legally recognisable.¹³

PDT and the PBCC

(i) Background

24. PDT is an organisation which adheres to Christian teachings that are derived from the Old and New Testaments, using the King James version (1611) and a translation of the Bible by JN Darby. Followers of JN Darby have traditionally been referred to as the 'Exclusive' Brethren, 'Plymouth' Brethren or the 'Taylor-Symington-Hales' Brethren ("Brethren") but now describe themselves as the PBCC. Central to their beliefs is the doctrine of separation from evil and, to this end, they separate themselves to some extent from the world.
25. The Brethren split in about 1848, initially into two branches: (1) those associated with J N Darby; these came to be known by others as the 'Exclusive' or 'Closed' Brethren; and (2) the 'Open Brethren'. The Exclusive Brethren split further on doctrinal and disciplinary issues in the 1880s and early 1900s. From the 1950s, the largest of the resulting Exclusive Brethren followed the doctrine of separation and required their members to conform to particular practices, including, for example, withdrawal from professional bodies and not eating with those who are not members of the Brethren community.
26. During the 1970s, there was a division of the Exclusive Brethren into two groups, those that supported the then leader James Taylor and those that did not. In 1972 the High Court made a scheme for the property of a local group to be divided between the two groups. Subsequent applications were made by other local groups for similar schemes.
27. In 1981, following a refusal by the Commissioners to register a Brethren meeting hall, on appeal, the Court held on the evidence before it that the purposes of that pro-Taylorite trust were charitable: *Holmes v Attorney General*¹⁴ ("Holmes").

contract to see how the parties have in fact acted under it. However, where there is a doubt or ambiguity about whether the objects of an institution are charitable, the court may examine the activities of the institution. This is done, not for the purpose of construing its constitution, but for the purpose of assisting in assessing whether the implementation of the objects would achieve a charitable end result: see Incorporated Society of Law Reporting for England and Wales v A-G [1972] Ch 73 at p 99E. After pointing out that motives and intentions of the founders are irrelevant, Buckley LJ said this:

"But in order to determine whether an object, the scope of which has been ascertained by due processes of construction, is a charitable purpose it may be necessary to have regard to evidence to discover the consequences of pursuing that object. It would be immediately evident that a body established to promote the Christian religion was established for a charitable purpose, whereas in the case of a body established to propagate a particular doctrine it might well be necessary to consider evidence about the nature of the doctrine to decide whether its propagation would be a charitable activity." In this connection, see Paragraph 23 above

¹² CA/2011/0001

¹³ *Gilmour v Coats* [1949] AC 426

¹⁴ The Times 12 February 1981

28. Following that decision, the Commissioners agreed that applications for registration should be considered on their merits and proceed in the normal way. The precedent value of *Holmes* is commented upon later in this Decision. Most Brethren meeting halls have not needed to be registered with the Commission, if and in so far as they are charitable, by virtue of being registered places of worship under the Places of Worship Registration Act 1855, as amended. However, following changes brought about by the 2006 Act such halls may now need to be registered, if charitable.
29. Central to the beliefs and practices of the PBCC is the doctrine of separation from evil. This impacts on the engagement of PBCC with the wider community and consequently on issues relating to meeting the public benefit requirement in order to be regarded as charitable.

(ii) The expressed purposes of PDT

30. The PDT is currently governed by a Deed of Variation dated 28 December 2004, varying a Trust Deed dated 30 September 1978 (the "Trust Deed"). The Trust Deed contains no express trust but clause 1(1)(c) sets out the Trust Purposes as follows:

"(i) The carrying on of the service of God including the celebration of the Lord's Supper Gospel Preachings Bible Readings and Addresses on the Word of God and other meetings of a Christian religious character according to the injunctions contained in the Holy Scriptures and the tenets and practices of those Christians forming a world-wide fellowship variously known as and hereinafter referred to as 'Brethren' who hold and practise the teachings of Christ and His Apostles contained in the Holy Scriptures as expounded by His servants the ministers of the Lord in the Recovery Mr J N Darby Mr F E Raven Mr J Taylor Senior Mr J Taylor Junior Mr J H Symington and Mr J S Hales and Mr B D Hales and their successors and who are in fellowship with Mr B D Hales (so long as he lives) and after the death of Mr B D Hales with any other person who thereafter is recognised by Brethren worldwide as the successor as a minister of the Lord in the Recovery

(ii) Any other charitable religious purpose connected with Brethren"

(iii) Are the expressed purposes sufficiently certain to have the potential to be charitable?

31. The Commission first considered whether the expressed purposes could be said to be sufficiently certain in any event to have the potential to be charitable. The PDT had expressed themselves willing to vary their existing trust deed under an express power of variation, if the Commission had continuing concerns about the charity of the current Trust Deed. The Commission accordingly needed to consider whether the existing Trust Deed was capable of variation in this way.
32. As a matter of general and charity law, a purpose trust which is not established as an exclusively charitable trust is in law void and of no legal effect. Further, any trust whose purposes are indefinite, uncertain and are not limited to purposes which are exclusively charitable is void.¹⁵

¹⁵ *Morice v Bishop of Durham* [1805] 10 Ves.Jun.522 at 536,543; *Bowman v Secular Society*[1917]AC 406 at 441; *Re Diplock* [1941] Ch.253 at 258-259,267

33. Alternatively, where as a matter of construction, the deed itself clearly and unequivocally discloses an intention to establish an exclusively charitable trust, then to the extent that the purposes are indeed charitable, more precise trusts may be established consistent with the remit of the purpose which is declared. This may be done by the trustees themselves under an express power of variation in the deed.
34. The Commission was concerned that the manner in which the expressed purposes of the PBCC is carried out may change over time due to the exposition of the teachings contained in the Holy Scriptures by named ministers of the Lord in the Recovery and their successors in the future. The issue was whether the purposes could be said to be sufficiently certain and definite so as to be able to determine that they are exclusively charitable for public benefit. The possibility of the tenets and practices changing in the future means that, even if the tenets and practices as currently expounded are for the public benefit, subsequent expositions by the current or future Minister of the Lord in Recovery might not be for the public benefit. See *George Drexler Ofrex Foundation Trustees v Inland Revenue Commissioners*.¹⁶
35. The Commission decided that, although not completely free from doubt, as a matter of construction, the Trust Deed disclosed a sufficient intention to establish an exclusively charitable trust of a religious nature. In consequence, if charitable, its property could be said to be permanently dedicated to charity, so that if necessary because, for example, the trusts were in the future administered in an irremediable non charitable way, the charitable assets could be applied cy-près. Accordingly, more precise charitable trusts were capable of being established consistent with the remit of the expressed purpose. On that basis, the Commission agreed to consider a Deed of Variation which declared new trusts and which comprised declarations of the core religious doctrine and the practice of faith of the PBCC. The Commission proceeded to consider charitable status on the basis of the governing documents as varied by the Deed of Variation.
36. The revised purposes of PDT in the Deed of Variation are:
- a) *the advancement of the Christian religion for the public benefit including by the carrying on of the service of God in accordance with the Old and New Testaments of the Holy Bible as followed by those Christians forming part of a world-wide fellowship known as the "Plymouth Brethren Christian Church" (the "**Brethren**") whose core doctrine is summarised in Schedule 1 to this Deed and whose proper practices in furtherance of some aspects of that core doctrine are summarised in Schedule 2 to this Deed; and*
 - (b) any other charitable purposes connected with Brethren.*

(iv) Holmes as a legal precedent for the charitable status of PDT?

37. The Commission then considered the extent to which it was bound by the decision of Walton J in *Holmes* where, on the facts of that case and the prevailing law, the court held that a Plymouth Brethren meeting hall was a charity.
38. The Commission noted that the general issue of whether the pre- 2006 Act case law on public benefit could still be considered as binding was specifically addressed in the *ISC Case* at paragraphs 91-93. It was said at paragraph 93:

¹⁶ [1966] 1 Ch 675.

*"It would also be necessary to consider whether the earlier case had specifically addressed the public benefit in either of the two senses. If the decision in the earlier case turned on a presumption (within the meaning of section 3(2)) that the purpose in that case was for the public benefit, the decision could not be relied on by institution A because that is precisely what section 3(2) precludes. The precedent effect, if any, of the earlier decision is abrogated. If the earlier decision did not turn on a presumption, but it was nonetheless assumed that the object was for the public benefit, or the issue was not debated at all, the decision would not give rise to a binding precedent in respect of that issue. This is because, as matter of general law, a decision of a court does not give rise to a legally binding precedent where a point of law has been assumed or not debated even where that point of law is a necessary component of the decision: see per Sir Nicolas Browne-Wilkinson V.-C. in *In re Hetherington* decd. [1990] Ch. 1 at 10G, subsequently approved by the Court of Appeal in *R. (Kadhim) v. Brent London Borough Council Housing Benefit Review Board* [2001] Q.B. 955."*

39. The Commission considered the extent to which the presumption of public benefit operated in *Holmes*, in which Justice Walton said:

"It is quite clear, therefore, that the trust deed is one for religious purposes. There, is therefore, a presumption that the trust deed is charitable because it has long been settled that the law presumes that it is better for a man to have religion — a set of beliefs which take him outside his own petty cares and lead him to think of others — rather than have no religion at all. Of course that is only the first step. That presumption is capable of being rebutted. It will be rebutted if it is otherwise shown that although of a religious nature the trusts are not for the public benefit because it is not for the benefit of the adherents of the religion themselves that the law confers charitable status, it is in the interest of the public."

"I am bound throughout this case by the evidence which has been filed and which is not in any way challenged, or even adversely in any respect commented upon.."

"Accordingly in spite of their alternative description, it appears to be quite impossible on the evidence to come to the conclusion that there is a lack of benefit to the public under this possible head. I am not, of course, concerned in any way to evaluate the precise amount of benefit"

"...so far from displacing the presumption of public benefit the evidence clearly strengthens that presumption once granted, as it inevitably must be granted, that this is a trust for religious purposes. The result is that the trust is a charity and entitled to be registered as such."

40. The Commission was of the view that the presumption of public benefit played a significant part in influencing the *Holmes* decision. Walton J having considered the limited evidence before him, determined charitable status on the basis of a presumption and, subject to that, in reliance on the principles laid down in *Thornton v Howe*¹⁷, where Sir John Romilly said that inculcating doctrines adverse to the very foundations of all religion and subversive of all morality would be void but propagating opinions which might be considered foolish or even devoid of foundation would not take it outside of charity. Walton J went on to say:

¹⁷ [1862] 26 JP 774

"I am not, of course concerned in any way to evaluate the precise amount of benefit. The law which I think is applicable was laid down many years ago ...in Thornton v Howe".

The Commission questioned whether that remains the correct test following the removal of any perceived presumption of public benefit before the 2006 Act.

41. In considering the case of *Holmes*, the Commission was of the view that the following factors were relevant:
- i. The issue of public benefit was considered in the context of the presumption of public benefit;
 - ii. Where it was not so considered, reliance was made on case law decided consistent with a presumption, by reference to *Thornton v Howe*;
 - iii. The judge made reference to detriment and harm as an issue, but no evidence of detriment or harm was put before him and he relied only on the evidence put before him; and
 - iv. The case is over 30 years old and both the diversity of religion and public attitudes towards religion and its benefits to society have evolved during this period.
42. The Commission concluded that the decision in *Holmes* although of obvious value in its judicial consideration of the Plymouth Brethren in a charitable context, should be distinguished on the law since it may have turned on a presumption, or at least been largely influenced by the existence of a presumption, of public benefit. Consistent with the decision in the *ISC Case*, the Commission decided that there was real doubt that the decision in *Holmes* could be relied upon and determined that it could not be treated as a precedent to support the charitable status of PDT.
43. The Commission also concluded that the decision in *Holmes* should be distinguished on the facts and the available evidence; the Commission was in a different position from Walton J having received evidence relating to detriment and harm.

(v) Do the purposes of PDT fall with the description of purposes set out in section 2(2) the 2006 Act?

44. Having considered the trust purposes and the Statement of Core Doctrines and the statement of Faith in Practice set out in the Deed of Variation, the Commission, consistent with the approach referred to in Paragraph 19 above, concluded that PDT was established for a Christian religious purpose falling within the description of purpose set out in the 2006 Act as being for the advancement of religion under section 2 (2) (c).

(vi) Are the purposes of PDT for the public benefit?

(a) The law relating to the public benefit requirement for the advancement of religion

45. The Commission considered the over-arching nature of the public benefit requirement as set out in the law. The Commission was of the opinion that it seemed reasonably settled and clear law in relation to public benefit in both senses (the benefit aspect and the public aspect) that public benefit must enure to the wider community not simply to the particular adherents of any religion. Where the practice of religion is essentially private, or is limited to a private

class of individuals not extending to the public generally, the element of public benefit will not be established.¹⁸ See *Holmes*, Walton J at page 6:

“...it is not for the benefit of the adherents of the religion themselves that the law confers charitable status, it is in the interests of the public. That benefit is considered to be the impact on the wider community of the moral and ethical teaching of the religion leading to a betterment of society generally”.

46. The Commission further believed that it was clear law that an enclosed religious community which is devoted solely to worship, prayer and meditation without any external contact is not charitable because as a matter of law the public benefit of such activities cannot be assessed¹⁹. It was held in *Gilmour v Coates* that the benefit of such activities were incapable of proof and belief alone was insufficient.
47. However, where a private religious group is not wholly shut off from the community but has a level of external engagement, public benefit can be assessed to the extent that the organisation is able to open out and reach the public. This was to be seen in the religious community in *Re Banfield*²⁰ and in the Commission’s own decision in relation to the Anglican enclosed order in *The Society of the Precious Blood*²¹. This can be contrasted with the retreat house In *Re Warre’s Will Trust*²² which was held not to be charitable as the retreat activity was held to be for the private consumption of the individual notwithstanding that the individual returned to the wider world after a stay.
48. Accordingly, the Commission considered that a religious group which is not wholly shut off from the outside world may be charitable if there is sufficient external interface and consequent public benefit in its endeavours. This will be a question of fact to be assessed on the evidence in each case.
49. Where access to religious services are the issue, clearly these must be held in public to confer public benefit, *Cocks v Manners*²³ (approved in *Gilmour v Coats*) where Sir John Wickens, V.C. said at page 584 in dealing with the argument that religious purposes were charitable
- “ ...that can only be true as to religious services tending directly or indirectly towards the instruction or edification of the public.....”*
- See also *Re Hetherington*²⁴ with regard to a mass found to be charitable if held in public.
50. However, religious services conducted in private may be charitable if public benefit can be found elsewhere. See *Neville Estates v Madden*²⁵ relating to a Jewish synagogue with restricted access to its services but where the adherents were free to engage in the wider world. Cross J said at page 853:

¹⁸ See in *Re Hetherington*, [1990] Ch 1 Sir Nicholas Browne-Wilkinson V.C. at p. 12 D-G, *Coats v Gilmour* [1949] AC, Lord Evershed at p. 357.

¹⁹ *Gilmour v Coats* [1949] AC 426

²⁰ [1968] 1 WLR 846

²¹ [1989] 3 Decisions of the Charity Commissioners (1995)

²² [1953] 1 WLR 725

²³ [1871] LR 12 Eq 574

²⁴ [1990] Ch 1

²⁵ [1962] Ch 832

“because the court is entitled to assume that that some benefit accrues to the public from the attendance at places of worship of persons who live in this world and mix with their fellow citizens”

51. Whilst the Commission considered that this case rested on the so-called presumption, it served to indicate that if there was wider social engagement it was possible for the public benefit requirement to be met, depending on the extent or beneficial impact of any such wider engagement.
52. The Commission concluded that public benefit for a religious charity would be determined by the extent to which its moral and ethical teaching impacted on the community leading to a betterment of society generally.
53. Notwithstanding a lack of certainty as to the law on public benefit and religions following the 2006 Act, as acknowledged by the Government²⁶ and arising out of (i) the apparent influence in some case law of the so-called presumption of public benefit and (ii) the question as to how far those legal authorities are still binding in light of the 2006 Act, the Commission’s conclusions set out above and the arguments underlying those conclusions stand.

(vi) The nature of the religious practices of PDT and whether they confer a benefit?

54. Central to the beliefs and practices of PDT and the PBCC is the doctrine of separation from evil. On the evidence, the Commission determined that this doctrine (i) resulted in both a moral and physical separation from the wider community and (ii) limited interaction between the Brethren and the wider public. Examples of restrictions imposed on members are in the following areas:

- eating/drinking with non-members;
- joining in worship with another faith;
- joining in association with non-members, joining professional bodies, unions, owning shares in a company, being in a business partnership with non-members;
- living in adjoined premises;
- voting or holding positions in town councils;
- marrying outside of the PBCC;
- children participating in a number of school activities including school dinners and religious worship; and
- as a result of other restrictions, not attending university.

55. The Commission considered independent expert evidence as to the nature of the doctrines and religious practices of PDT. For example, the statement of Dr. Eileen Barker (Professor Emeritus of Sociology with special reference to the study of religion at the London School of Economics, and the founder, chair and honorary director of Inform (Information Network on Religious Movements), a charity providing information about new religious movements) provides a useful account of the nature of the PBCC’s doctrines and religious practices. She says:

“exclusivity can be seen as one of the defining characteristics of their fellowship. It is the extent to which separation is seen as an integral part of the belief system that contributes to the distinction between the Exclusive Brethren and not only other Christians but also some of the other Brethren”²⁷

²⁶ See (a) the Government’s response to Lord Hodgson’s review (*Government Response to (1) the Parliamentary Accounts Scrutiny Committee (PASC) Third Report of 2013-14 & (2) Lord Hodgson’s statutory review of the Charities Act 2006*) and (b) the PASC review of the 2006 Act (*Third Report of 2013-14. The role of the Charity Commission and public benefit. Post legislative scrutiny of the Charities Act 2006*) where at page 11 it is stated: “The Government accepts that there has been a lack of certainty in relation to religious charities and public benefit following the Charities Act 2006...”

²⁷ Paragraph 3

56. Dr Barker explains the scriptural basis of the doctrine and how that doctrine plays out in practice, which evidences this is not simply a moral separation from non-Brethren but also a physical separation:

“Over the years, the Brethren have gone well beyond the initial injunction not to break bread with those holding to doctrines that differ from their own, to build up a community of believers who separate themselves off in many other ways from non-members or ‘worldlies’. It is not only the bread that is broken at the Lord’s Supper that they will not share, they will not eat at the same table as those who are not in fellowship; they will not live in houses that share a common wall with outsiders; they will not vote; they will not allow their children to attend university and their members cannot belong to any secular, vocational (or ecumenical) organisation, and are, thus, unable to be doctors, lawyers or trade unionists; and they have cut themselves off from socialising with non-members, including their own families.”²⁸

57. In addition, there are disciplinary practices carried out by the Brethren which gave rise to allegations of detriment and harm which were considered by the Commission (the “Disciplinary Practices”). These involve “shrinking” (formerly known as “shutting up”) and “excommunication” (formerly known as “withdrawal”) and are considered below at Paragraph 89.

58. Dr Barker explains the nature of the Disciplinary Practices as follows:

“The shutting up is designed “to give time for clarification as to the full facts and implications and to give time for repentance” (Barter et al 2008). Those who are shut up will live by themselves. They will be brought food and reading material but have no social contact with others; although they might go to work or attend school, they cannot attend any services or meetings. They will, however, be visited regularly by elders to discuss their situation. In such circumstances a family might live in separate houses, with, perhaps, the spouse and the children staying with other Brethren. If both parents are shut up their children can stay with other Brethren, possibly grandparents. Children under 12 would not be subject to being shut up, but once they reach that age they are deemed responsible for their own behaviour.

Being ‘put out’ or ‘withdrawn from’ involves a total expulsion or excommunication from the Brethren. There are those who have been withdrawn from who have found themselves ejected from their homes, completely cut off from their family and friends, having nowhere to go and no one to whom they felt they could turn.”²⁹

It should be noted that the PBCC were given no opportunity to comment on the content of Dr Barker’s report and that the evidence submitted by the PBCC on Disciplinary Practices differs from this account.

Evidence considered by the Commission

(i) Evidence of doctrine and practices

59. The Commission had evidence which was not available to it at the time of its 2012 Decision from academics and theologians, those who have studied and

²⁸ Paragraph 23

²⁹ Paragraphs 29-30

carried out research into the Brethren and from individuals who were former members of the PBCC and/or who have family who are or were members of the Brethren community. The evidence addressed the following matters in particular:

- evidence as to the PBCC, its doctrines and practices, the nature of worship, its leaders and their teachings and variations in the teachings and practices over time;
- evidence as to the extent and nature of the interaction between the PBCC and the wider community, the limitations on such interaction and any benefits which accrue; and
- evidence as to the doctrine of separation and the Disciplinary Practices and their effects and consequences for members, their families and friends, for the wider community, and for society.

60. The Commission noted that the doctrine of separation operates not only in a moral sense as submitted by the PDT but also in a physical sense. The Commission's evaluation of the evidence supported the view that physical separation is a manifestation of the doctrine of separation which is a central doctrine to the PBCC. Accordingly, the level of interaction with the public is limited to some extent by the very nature of PBCC's doctrines and practices. The Commission proceeded to consider to what extent that impacts upon their ability to demonstrate public benefit. This is detailed below.

61. The Commission also had regard to the Disciplinary Practices, which also result in physical separation as well as giving rise to issues of detriment and harm.

62. In addition, the evidence presented to the Commission demonstrated changes in practice which gave rise to a concern as to whether it is possible to be certain as to the nature of the doctrines and practice and whether these are sufficiently certain and will continue into the future so as to be able to conclude that they may be exclusively charitable.

63. The Commission accepts that many religions may, generally and in a structured way, change as a result of adapting to changing social conditions. However, the Commission noted that the history of the PBCC reveals schisms and changes of practice introduced in an unstructured way by different leaders.

64. In response to the Commission's concerns, the PBCC agreed to set out in Schedules to the Trust Deed a declaration of its principles and practices which would be incorporated and become an integral part of the Trust Deed.

(ii) Evidence from PDT as to the nature of its purpose and whether it is such as to be a benefit to the community

65. The Commission considered evidence of public benefit presented by PDT in support of its application, particularly in relation to: access to worship; street preaching and other activities including activities in the wider community impacting on the edification of the public in a Christian way of life.

66. The Commission also considered evidence from members of the public who wished to make representations and did not support the application for registration of PDT as a charity. This evidence is summarised at Paragraph 87 below. The nature of this evidence was put to PDT and they responded.

67. Some of the evidence received suggested that the various changes in practice are solely directed towards achieving charitable status. The Commission was aware of its legal obligation to assess the issues on the basis of the facts rather than the motive. The overriding concern was whether the evidence is sufficient to demonstrate that PDT is established for and is capable of operating for the public benefit.
68. The evidence demonstrated relatively recent changes to their practices in particular through:
- advertising of services on meeting hall noticeboards and on the PBCC website;
 - more regular street preaching; and
 - increased engagement with the wider community.
69. Some of this evidence was new and additional to the evidence which was available to the Commission at the time of making its 2012 Decision. It showed an organisation which was evolving and increasing its level of engagement with the public. PBCC provided to the Commission a paper entitled “*Access to worship and interaction of members of the Plymouth Brethren Christian Church (PBCC) with the wider community*” with supporting evidence contained within 43 Appendices.

(a) Access to public worship

70. The Commission considered the opportunity for the public to access public worship. It assessed whether the evidence supports that there is a genuine openness of worship to the public.
71. The evidence showed that, in the main, the PBCC meeting halls are protected by fences and gates which the PBCC say is for security purposes. The signage outside the PBCC meeting halls identifies them as public places of worship and provides contact details for the public to obtain information on the times of services. It was noted that the PBCC are in the process of changing their signage to provide more information. There is evidence that people are spoken to by PBCC members to assess whether they are “genuinely well-disposed members of the public” before entry to meeting halls is permitted. All services are open to non-members except Holy Communion services which are ordinarily restricted to PBCC members and very occasionally attended by non-members with the consent of the congregation.
72. The Commission considered the nature and level of participation in the services by the public as part of its deliberations on whether the worship is genuinely public worship. The PBCC provided evidence of the number of instances of public attendances. The Commission confirmed that the number of public attendees is not necessarily determinative of public benefit but the numbers should not be negligible.
73. Against this, the Commission considered the evidence of some ex-members that it would be very rare for a non-member to attend the meeting halls and that it has not been easy to access services. Some members of the public provided evidence that they encountered some difficulties accessing services, for instance they were refused entry to the Holy Communion service and not invited to an alternative service; their attire was not considered suitable (a woman wearing trousers rather than a skirt).

(b) Engagement with the wider community

74. The evidence showed that the PBCC have recently started to engage with the wider community by holding open days where they distribute food and bibles. Some members of the public have questioned why members of PBCC do not eat with them and allow access to their meeting halls rather than holding these in marquees in the car parks.
75. PDT engages in street preaching to spread the word of God rather than as a means of proselytising. The distribution of religious publications and spreading the gospel is clearly charitable. There was some evidence that street preaching has been of a sporadic and ad hoc nature although the recent evidence is that it is of a more widespread and regular nature. The impact of street preaching on the wider community was considered by the Commission. There was some evidence that suggested street preaching by the PBCC may have limited impact because it involves little or no interaction with the public.
76. The Commission had evidence to show that the PBCC undertook disaster relief work, assisted those in need and donated to charity.
77. The Commission accepted there was some beneficial impact on the wider community through the encouragement of charitable giving and living out Christian beliefs in the community, including through disaster relief. The PBCC provided evidence to demonstrate these aspects.
78. Having carefully considered all of the available evidence, the Commission concluded that the PBCC has a beneficial impact through its instruction and edification of the public in a Christian way of life by:
- providing the public with access to worship. The public have an opportunity to attend and to participate to some extent in services. The requirement to be a well disposed person and adhere to their dress code does not prohibit public attendance and is common to some other religions;
 - engaging in street preaching which involves distribution of religious publications and spreading the word of God; and
 - engaging to a certain extent in the wider community, including through disaster relief.

(ii) Are those who may benefit a sufficient section of the public?

79. The Commission considered whether the benefits are conferred upon the public or a sufficient section of the public. This is an important consideration given the clear legal principle emanating from case law that the benefit of religion is not simply for the adherents but the wider public. There was some evidence that the PBCC are inward facing with a strong focus on their nuclear and extended families (in so far as they are members of the community) and on their local meeting halls and wider PBCC fellowship. The issue for an internally focussed organisation is that it is more difficult to demonstrate benefit to the wider community.
80. As noted above, the PBCC provided evidence to show that members live their lives as members of the community and impact in a positive way living out their Christian beliefs in particular by responding to local disasters, assisting those in need and donating to charity.
81. The Commission considered that the evidence, on balance, may tend to suggest that PDT operates predominantly rather than exclusively for the benefit of its members. However, it concluded in line with the legal analysis set out in

Paragraphs 45 to 53 above, that this was not necessarily fatal to charitable status.

(iii) *Are there elements of detriment, harm, public disadvantage or disbenefit which outweigh or militate against public benefit?*

(a) The legal framework for consideration of issues of detriment and harm

82. Detriment and harm (or disbenefit) is considered to be an aspect of public benefit in the first sense. Notwithstanding clear benefit arising from the purposes of an organisation, where these are outweighed by detriment or harm to the community by pursuing its purposes, then the public benefit requirement will not be met. The principal legal authority on this issue is the case of *National Anti Vivisection Society v IRC*³⁰ (“Anti Vivisection Case”) where the moral benefits to the community arising from campaigning to prevent live animal experimentation were weighed against the material benefit to humankind arising from medical research. The House of Lords found in favour of the latter and the society was not found to be charitable. As analysed in the *ISC Case* at Paragraph 99, in the *Anti Vivisection Case*:

“The Attorney General, by contrast, argued that the whole terms and effect of the particular trust have to be considered and if its object involves consequences which, when duly weighed, are found injurious to the community, the trust cannot be charitable. The court must look at all the considerations, material and moral, and reach a conclusion on the whole matter. There is no watertight division between material benefits and moral benefits”.

83. The issue was considered at length in the *ISC Case* at paragraphs 94 to 110. The Commission noted two paragraphs, the first is a quote from Lord Wright in the *Anti Vivisection Case* at page 57, paragraph 100:

“There is not, so far as I can see, any difficulty in weighing the relative value of what is called the material benefits of vivisection against the moral benefit which is alleged or assumed as possibly following from the success of the appellant’s project. In any case the position must be judged as a whole. It is arbitrary and unreal to attempt to dissect the problem into what is said to be direct and what is said to be merely consequential. The whole complex of resulting circumstances of whatever kind must be foreseen or imagined in order to estimate whether the change advocated would or would not be beneficial to the community.”

84. The second is at paragraphs 105 and 106 where the UT was attempting to assess the impact of evidence of detriment and harm:

“However, we think that a clear case will have to be made out to show that an object which would ordinarily be charitable is not charitable because of the consequences which it has for society. That, indeed, chimes with what Lord Simonds had to say about the objects of an established charity becoming non-charitable if it appears that a purpose once thought beneficial had become truly detrimental to the community. Developments in understanding and science must be reflected in what is to be seen as charitable. But if a clear case is made out, the institution concerned is not, or is no longer, charitable. As we see it, the court must be able to take into account the detrimental effects of implementation of an object (in the present case, an

³⁰ [1948] AC 31

educational object) in a particular way even when that object implemented in other ways would clearly be charitable.

The court, we conclude, has to balance the benefit and disadvantage in all cases where detriment is alleged and is supported by evidence. But great weight is to be given to a purpose which would, ordinarily, be charitable; before the alleged disadvantages can be given much weight, they need to be clearly demonstrated. There is, we think, a considerable burden on those seeking to change the status quo.”

(b) Consideration of evidence from members of the public as to the nature of the PBCC’s activities

85. As referred to above, the Commission considered evidence relating to allegations of detriment, harm or disbenefit which was presented to it following the making of its 2012 Decision. Although the Commission did not have this evidence available to it at the time of making its 2012 Decision, it was aware of the nature of such allegations, which were in the public domain.
86. The Commission noted it was in a different position to Justice Walton in *Holmes* who commented that he was aware of allegations but could only consider the evidence before him.
87. The Commission now had a substantial body of evidence from ex-members of the PBCC and others which highlighted the problems they experienced in particular, on leaving the community and continuing family relationships. The Commission was particularly keen to ensure these issues were addressed by the PBCC. Some of the examples put forward were historical, but others were of a more contemporary nature. The evidence presented to the Commission by PBCC, by members of the public and by experts was at times contradictory and the Commission proceeded to weigh up the evidence.
88. In 2012, the Commission did not consider there was sufficient public benefit for PDT to be charitable; consequently it did not reach the point of considering disbenefit. However, since such evidence of possible disbenefit is now available, it is appropriate that the Commission should consider such evidence in the context of public benefit.
89. In summary the allegations received by the Commission and put to the PBCC related to:
 - The nature of the doctrines and practices of the PBCC generally;
 - The imposition and control of strict codes of behaviour pervading all aspects of life restricting freedom of choice through a centralised and authoritative system
 - the nature and impact of the Disciplinary Practices³¹;
 - Variations in the practice of disciplinary action of an arbitrary nature subject to the judgment of leaders and the assembly;
 - Harsh disciplinary action taken in relation to often minor deviation or transgression;

³¹ See Paragraph 59 above

- Physical separation of family members during disciplinary processes with family members living separate lives with little or no contact often leading to permanent divisions within families;
 - Detrimental impact on health and well-being of those subject to discipline and their family members; and
 - Lack of support and isolation from friends within the Brethren community.
- the impact of the doctrines and practices on those who leave PBCC;
- The exclusory effect on family life and relationships when members leave as a result of a complete severing of ties;
 - Where contact is made this is infrequent, the quality of any contact and relationship is impoverished;
 - Absence of assistance and support to those who leave including vulnerable children and young people;
 - Those who leave are ostracised and consequently treated differently from other members of the public;
 - Loss of social network; social isolation;
 - Impact on finances where persons have been dependant upon the Brethren for employment and mortgage;
 - Loss of inheritance where relatives remain and leave their property to the Brethren which is encouraged;
 - Inability to participate in funeral arrangements and services of Brethren relatives;
 - Threats of legal action against those who speak out against the Brethren; and
 - Fear and anxiety of repercussions for themselves and family members who remain in the Brethren.
- the impact of the doctrines and practices on children within the PBCC.
- Limitation on educational activities for children (e.g. limitations on the use of technology and censorship of materials within Brethren schools);
 - Limitation on social interaction with non-Brethren children within and outside of the school environment;
 - Inability to attend university as the lifestyle conflicts with Brethren principles and practices; and
 - Limited career opportunities due to restrictions on education and for girls who are expected to marry and have children.

90. The Commission provided PDT with a summary of the allegations so that they had the opportunity to make representations in reply; these were taken into account by the Commission. In making its representations PDT indicated that some of the allegations must be of an historic nature but did acknowledge past mistakes in relation to its Disciplinary Practices. They further demonstrated a willingness to make amends for these and to do what they could as a Christian organisation to ensure, as far as it was consistent with its religious beliefs, it would act with Christian compassion in the future, particularly in its dealings with disciplines of the Disciplinary Practices and in its relations with former members of the Brethren.

91. Having fully considered all of the available evidence albeit untested by cross examination, the Commission concluded, on balance, that there were elements of detriment and harm which emanated from doctrine and practices of the Brethren and which had a negative impact on the wider community as well as individuals. In particular the nature and impact of the Disciplinary Practices and the impact of the doctrines and practices on those who leave and on children within the PBCC may have consequences for society.

92. The Commission considered that there is evidence to support the view that there are elements of detriment and harm which are in real danger of outweighing public benefit, although given as noted above that the evidence was untested by cross examination, it could not come to a concluded view of its extent or whether it indeed outweighed public benefit in the first sense. The most serious detriment and harm related, in the Commission's view, to the allegations of the treatment of ex-Brethren and to the Disciplinary Practices. The Commission asked that the PBCC address these issues, which they were willing to do. After discussion with the Commission, the PBCC acknowledged that its doctrines and practices should be explicit and integral to its trusts and could address the allegations made against it.
93. The Commission noted PDT's proposals to overcome these issues by: amending its Trust Deed, clearly setting out its principles and practices and in particular that its Disciplinary Practices and its dealings with former members would be mitigated by compassion. The Deed of Variation incorporating Faith in Practice ensures that the principles and practices are integral to the trusts, the congregation subscribe to principles that demonstrate charitable intent, and are binding on the trustees who uphold such principles when administering the meeting halls.
94. The PBCC's statement of "*Faith in Practice*" which outlines the fundamental principles of the practice of their faith. This includes the following:
- i. The principle of separation is set out which confirms that it "*involves drawing away from the world in a moral sense, rather than in a physical sense*" and "*permits inter-personal communication and social interaction with non-Brethren (including former Brethren) and service to them because we seek to do good to all in the world, as opportunities arise.*"
 - ii. Living a Christian life is upheld "*We seek and are encouraged to live exemplary lives in all our relationships with others in the wider community (including former Brethren), in accordance with the teachings of Holy Scripture.*" "*Holy Scripture commands us to be good neighbours to others, and deal with all other people (including former Brethren) openly, honestly and fairly and consistent with these principles, we should give our time and money to assist those in need in the wider community, in so far as reasonable given our abilities and available resources.*"
 - iii. The concept of showing compassion to others is set out: "*As Christians, we are to follow the example of our Saviour, Jesus Christ, and show compassion to others... We are expected to care for those who are receptive to such care in our own community, but then also in the wider community (including former Brethren), to the best of our abilities and within our resources.*"
 - iv. Compassion is to be shown in relation to Disciplinary Practices – "*When church admonition is necessary, due provision will be made for the welfare of the church member who is under review. This should cover emotional, health, family and financial considerations... The Holy Scriptures require the practice of admonition and discipline to reflect justice and fairness.*"
 - v. The nature of the Disciplinary Practices is set out as follows - "*If repeated pastoral care is unsuccessful then the next stages of admonition could include (1) inviting the person being cared for to attend a meeting of the*

Assembly to listen to an appeal and if suitable to present their differences; (2) a "shrinking" from the person concerned (which involves minimising social contact with the person for a limited period to provide them with the space and time to make a private and personal choice about their continuing in the fellowship), which is relatively rare as pastoral care is intended and does in most cases resolve the matter (Gal 6:1); and (3) the final stage of Assembly admonition would be excommunication this being necessary when a person leaves and separates themselves from the Assembly entirely on their own personal decision and accord, in which case their position as a member of the Assembly becomes untenable, and in other very rare cases where excommunication is necessary as an extreme or last resort measure for serious misdeeds wholly at odds with basic scriptural teaching. Even in cases of excommunication, there is follow up pastoral and shepherd care in view of the possibility of re-including the person concerned in fellowship and the restoration of him or her to full privileges as a member of the Assembly, if he or she wishes"

- vi. Compassion is to be shown more generally in the treatment of individuals – *"No action should be taken in any way to treat vindictively, maliciously or unfairly persons whether within or outside the community, including those who were within the community and who are leaving or have left the community."*
 - vii. The education and support of children is reinforced as follows – *"Every care should be taken to provide for and support the welfare and education of children and young persons within the community."*
 - viii. Support for those who leave the PBCC is expressly provided for – *"Where persons seek to leave the community, reasonable assistance should be afforded to them in terms of support and/or financial assistance relating to employment or other matters, where they have been dependent on the community for that support."*
 - ix. The importance of maintaining relationships when a person leaves is recognised – *"Reasonable steps should also be taken in these cases (consistent with and subject to any legal requirements applying to the persons involved and the human rights of the persons involved) to allow the continuation of family relationships where a family member has left the community, including providing access to family members, in particular children."*
 - x. The ability of former Brethren to attend funerals is confirmed – *"Where a person within the community dies, the principle of separation allows members of the extended family of the deceased, including former Brethren, to attend their funeral service."*
95. The Commission had a concern about the higher and further education of young Brethren people given the attitude towards and limits placed on attendance at university and other further educational institutions by Brethren ministry and teaching and the lack of educational and other opportunity for learning and development which might result. The position of the PBCC is that membership of such institutions does not accord with Brethren doctrine and consequently such attendance does not accord with being in fellowship with the PBCC and Disciplinary Practices may be invoked. However, young people are able to access higher education courses by correspondence such as the Open University. Where young people do decide to attend university there may be a severing of ties so individuals are not in fellowship for the period of their studies. They may decide to return as members following their studies. The PBCC have

clarified that the education of young children should be provided for consistent with their principles of faith. On balance, the Commission was of the view that, of itself, this restriction did not prevent PDT from meeting the public benefit requirement.

Conclusion

96. The Commission concluded that the revised statement by the PDT of its doctrines and practices, in particular its interrelation with the wider community, was essential in enabling the Commission to accept the PDT for registration as a charity for the public benefit. Accordingly, the Commission agreed that it would register the PDT on the basis of the attached draft Deed of Variation which incorporates as part of the trust purposes the Schedules containing (i) a Statement of Core Doctrine of the Brethren and (ii) Faith in Practice.
97. The Commission was satisfied that if PDT applied for and was registered on the basis of this amended documentation, the Commission would be able to regulate PDT.
98. If the trustees *do not comply* with the trusts, the Commission will be able to regulate on the basis of a breach of trust. If the trustees *are unable to comply* with and carry out the trusts, the Commission may regulate on the basis that a *cy-près* occasion has arisen and the trust property will be applied for charitable purposes of a similar nature.
99. The Commission's decision is made on the facts of this case.

THE TRUSTEES OF PRESTON DOWN TRUST

DEED OF VARIATION

PRESTON DOWN TRUST

FARRER & CO LLP
66 Lincoln's Inn Fields
London WC2A 3LH

THIS DEED is made the

day of

2014

BY

MICHAEL SIMON BESLEY of [address] **LAURENCE EDWARD BUCKLEY** of [address]
MICHAEL DAVID SCOTT of [address] **ANTHONY DAVID WALLIS** of [address] and **JOHN DUDLEY WALLIS** of [address] ("the **Trustees**").

SUPPLEMENTAL TO

- (i) a Trust Deed dated 30 September 1978 made between Kenneth Mervyn Dawe Laurence Edward Buckley and John Dudley Wallis (the "**Original Trustees**") as amended by the Deeds of Variation listed in the First Schedule (the "**Trust Deed**") and under which the Original Trustees established a trust dedicating property to charity for religious purposes, which is now known as Preston Down Trust (the "**Trust**"); and
- (ii) the deeds and documents listed in the First Schedule.

WHEREAS

- (A) The Trustees are the current trustees of the Trust.
- (B) The Trustees wish, for the purposes of clarification, to restate the charitable purposes of the Trust and to make a number of variations to the administrative provisions of the Trust Deed.
- (C) Under Clause 11 of the Trust Deed the Trustees have a power to amend the Trust Deed by Deed of Variation executed by all of the Trustees, provided the amendment has been sanctioned by the Minister of the Lord in the Recovery and a unanimous resolution of a meeting of the Congregation.

- (D) This Deed of Variation was sanctioned by the Minister of the Lord in the Recovery in a letter dated [date] and by the Congregation in a unanimous resolution passed at a meeting held on [date].

NOW THIS DEED WITNESSES that:

1. In exercise of the power conferred on the Trustees by Clause 11 of the Trust Deed the Trustees declare that on and from the date of this Deed of Variation:
 - 1.1 the Trust Deed shall be read and construed in the form set out in the Second Schedule (the "New Trust Deed"); and
 - 1.2 the Trust Property shall be held on the trusts of the New Trust Deed.
2. Unless the context requires otherwise terms defined in the Trust Deed shall have the same meaning in this Deed of Variation.
3. This Deed of Variation may be executed in counterparts each of which shall be considered an original with the same effect as if the parties or their representatives signed the same instrument.
4. This Deed of Variation is governed by the law of England and Wales.

IN WITNESS whereof the Trustees have executed this instrument as a Deed on the date first before written

The First Schedule

Deeds and Documents

Document	Date	Parties
Deed of Variation	19 February 1991	Kenneth Mervyn Dawe Laurence Edward Buckley John Dudley Wallis
Deed of Variation	28 December 2004	David Charles Besley Andrew Kenneth Buckley Laurence Edward Buckley Anthony David Wallis John Dudley Wallis

The Second Schedule

New Trust Deed

NOW THIS DEED WITNESSES as follows:

1. Preliminary

In this Deed where the context so admits:

1.1 The following expressions have the following meanings:

- (a) **"Brethren"** has the meaning ascribed to it in Clause 2.1(a).
- (b) **"Trust"** means the charitable trust governed by this Deed.
- (c) **"Trustees"** means the Trustees for the time being of this Deed and a Trustee means one of the Trustees.
- (d) **"Trust Property"** means all the following property namely:
 - (i) the Original Investment;
 - (ii) all moneys and property whether real or personal subsequently paid or transferred to and accepted by the Trustees as additions to the Original Investment;
 - (iii) the investments and property from time to time representing the Original Investment and the additions thereto described in paragraph (b) of this definition or any part or parts thereof together with the income thereof.
- (e) **"Trust Purposes"** means the charitable purposes of the Trust as set out in Clause 2.1.
- (f) **"Member of the Congregation"** means a person who has attained the age of 17 years and who:

- (i) customarily attends any meeting room situated on the Trust Property and maintained by the trustees for the Trust Purposes and also, if a monthly meeting for care and administration is held at any such meeting room, any other person who regularly attends such meeting or who is entitled to so attend but for health or other good reasons has been unable to do so;
 - (ii) continues to partake in the Lord's Supper with Brethren; and
 - (iii) is in fellowship with Mr B D Hales (so long as he lives) and after the death of Mr B D Hales with any other person who thereafter is recognised by Brethren worldwide as the successor as a Minister of the Lord in the Recovery.
- (g) **"Congregation"** means all the Members of the Congregation for the time being.
- (h) **"Meeting of the Congregation"** includes:
- (i) a Regular Meeting, being a meeting of the Congregation of which oral notice has been given to the Members of the Congregation present at, and in the course of, a celebration of the Lord's Supper;
 - (ii) a Special Meeting being a meeting of the Congregation called as provided in Clauses 14.1 14.2 and 14.3.
- (i) **"Original Investment"** means all moneys and property whether real or personal originally settled on the trusts of the Trust.
- (j) **"Person"** includes a body corporate.

1.2 The singular includes the plural and the plural the singular and words importing any gender include every gender and the headings and marginal and foot notes are included for convenience only and shall not affect the construction of this Deed.

1.3 Any reference in any of the provisions of this Deed to the **"Minister of the Lord in the Recovery"** is a reference to Mr B D Hales (so long as he lives) and after the death of Mr B D Hales with any other person who thereafter is recognised by Brethren worldwide as the successor as a Minister of the Lord in the Recovery.

1.4 For the purposes of this Deed:

- (a) any decision, declaration or other thing that is required to be in writing in the stipulated form shall be in writing signed by the person making the decision,

declaration or doing the other thing (executed as a deed where the general law so requires to make it effective for its intended purpose) and attested to by two witnesses to whom he is personally known.

- (b) any decision, declaration or other thing that is in writing in the stipulated form shall be conclusive evidence of what is stated therein.

1.5 Where the sanction or decision of a unanimous resolution of a Meeting of the Congregation is required under any provision of this Deed this may be evidenced by minutes of the Meeting at which the sanction or decision was given signed by the Chairman of the Meeting and countersigned by the Trustees (excluding any Trustee removed from office by such resolution).

2. Trust Purposes and Powers

2.1 The Trustees must apply the income and, at their discretion, all or part of the capital, of the Trust in furthering the following charitable purposes:

- (a) the advancement of the Christian religion for the public benefit including by the carrying on of the service of God in accordance with the Old and New Testaments of the Holy Bible as followed by those Christians forming part of a world-wide fellowship known as the "Plymouth Brethren Christian Church" (the "**Brethren**") whose core doctrine is summarised in Schedule 1 to this Deed and whose proper practices in furtherance of some aspects of that core doctrine are summarised in Schedule 2 to this Deed; and
- (b) any other charitable purposes connected with Brethren.

2.2 In furtherance of the Trust Purposes, the Trustees may exercise the powers from time to time conferred on charity trustees by law and may in addition from time to time:

Acquire Property

- (a) purchase or otherwise acquire, hold, develop or improve property of any kind;

Build

- (b) build or erect any buildings or improvements on any part of the Trust Property and extend, add to, alter, demolish, reconstruct or rebuild any buildings or improvements at any time standing upon any part of the Trust Property; and

Furnish and Equip

- (c) furnish and equip any such buildings or improvements and alter, add to, renew or replace the furniture, fittings and equipment of any such buildings or improvements;

Manage and Maintain

- (d) manage, carry on, maintain, repair, renovate, remodel or improve and keep in repair the Trust Property or any part thereof;

Insure

- (e) insure the Trust Property or any part thereof against such risks of loss or damage and in such amounts as the Trustees see fit and effect such other insurances as they see fit in connection with the Trust Property or the use thereof or the trusts hereof or the exercise by the Trustees of their powers hereunder;

Pay Expenses

- (f) pay all taxes, assessments, expenses and other outgoings in respect of the Trust Property or any part thereof and all expenses and outgoings incurred by the Trustees in relation to the trusts hereof or the exercise of the powers of the Trustees hereunder;

Permit Use of Property for Trust Purposes

- (g) permit each gospel hall included in the Trust Property to be used as a meeting place for religious purposes for Christians and in particular as a place for worship open to all people who respect the gospel hall as a sacred place, come to it in a spirit of gravity, genuinely wishing to learn from the teachings that are given there and who wish to be present for worship or to observe with due respect the system of worship, but, subject thereto, on such terms and subject to such regulations as the Trustees may determine;

Lease

- (h) lease the Trust Property or any part thereof for such rent, for such term and with or without an option for the lessee to renew the lease or to purchase the property subject thereto and in all respects on such terms and conditions as the Trustees think fit;

Borrow and Mortgage

- (i) borrow moneys from any person (including any one or more of the Trustees) either with or without security and either at interest at any rate or without interest; and the Trustees may for the purpose of any such borrowing mortgage charge or otherwise encumber the Trust Property or any part thereof;

Sell or Exchange

- (j) sell or exchange the Trust Property or any part thereof for cash or other property on credit or partly for cash and partly on credit (either with or without taking a mortgage or other security to secure payment of any part of the purchase price) and at such price and on such terms and conditions as the Trustees may in their discretion think fit;

Invest

- (k) invest all or any part of the Trust Property which in the opinion of the Trustees is not immediately required to be expended for Trust Purposes or in the exercise of the Trustee's powers as if they were the beneficial owners thereof and were not restricted to trustees' investments but always subject to the investment criteria of the Brethren;

- (l) vary or transpose any investments on this same basis;

Lend

- (m) lend any moneys being part of the Trust Property to:

- (i) the Trustees of any trust which is a Trust for purposes which are substantially Trust Purposes; or
- (ii) any corporation the principal objects of which are substantially Trust Purposes,

either at interest at any rate or without interest and upon such security as the Trustees think fit or without any security and in all respect on such terms and conditions as the Trustees think fit;

Receive Gifts

- (n) receive as accretions to the Trust Property gifts and benefactions of any kind whether inter vivos or testamentary;

Transfer to Other Charitable Trusts

- (o) pay transfer or apply the Trust Property or any part thereof or supply (or arrange for the supply of) goods, property or services to or for the benefit of any other trust which is a trust for Trust Purposes whether or not the trustees thereof include the Trustees or any of them or to any corporation limited by guarantee the principal objects of which are Trust Purposes and the memorandum of association of which prohibits the distribution of any of its income or property to its members;

Employ Agents

- (p) instead of acting personally, employ and pay any other persons to transact any business or to do any act of whatever nature in relation to the Trust Property of the Trusts hereof including the receipt and payment of money;

Compromise Claims

- (q) on such terms as the Trustees think fit compromise compound abandon or accept any security real or personal for any debt or other claim relating to the Trust Property and for that purpose enter into and execute such release agreements or assignments as the Trustees think fit;

- (r) accept or refuse any money investments or property offered given bequeathed or devised to the Charity in cases where the Trustees in all the circumstances regard themselves as being under a moral obligation to do so and decide (subject to any condition or term imposed by any donor or testator) whether the same or any part of it shall be held as capital or income of the Trust;

Dedicate Land

- (s) transfer or dedicate any land or other property or any estate or interest therein to public or local authority or for any public purpose;

Refrain from Suing

- (t) refrain from suing or taking any action to enforce any debt or other claim relating to the Trust Property;

Act on Advice

- (u) take and act upon the opinion of any solicitor or counsel practising in England and Wales as to the construction of this Deed or as to any matter arising under this Deed or relating to the trusts hereof;

Indemnity

- (v) indemnify or reimburse themselves out of the Trust Property or any part thereof for any expenses or liabilities which they may reasonably incur in relation to the Trust Property or the trusts hereof of the performance or exercise of their duties and powers hereunder;

Employ Capital or Income

- (w) employ at their discretion capital or income of the Trust Property in the performance or exercise of any of their duties or powers hereunder; and

Determine whether Income or Capital

- (x) determine whether any receipts or outgoings are to be as or charged to income or capital.

Limitation as to Real Property

2.3 No land forming part of the Trust Property shall be:

- (a) used for the purpose of pecuniary profit;
- (b) disposed of (whether by sale or exchange or otherwise) by the Trustees unless the disposal has been previously sanctioned by a unanimous resolution of a Meeting of the Congregation or, if there is no Congregation, has the prior sanction of the Minister of the Lord in the Recovery.

3. Trustees' Discretion and Liability

Discretion

3.1 Every discretion or power hereby conferred on the Trustees shall be an absolute and uncontrolled discretionary power and the Trustees shall not nor shall any of them be held liable for any loss or damage accruing or suffered as a result of their exercising or

concurring in an exercise of or refusing or failing to exercise or to concur in an exercise of any such power.

Liability

- 3.2 No Trustee shall be liable for any loss not directly attributable to his own dishonesty or gross or wilful neglect or to the wilful commission by him of an act known by him to be a breach of trust and in particular he shall not be bound to take any proceedings against a co-Trustee for any breach or alleged breach of trust committed by such co-Trustee.

4. Insurance

Without prejudice to the duty of the Trustees to safeguard the Trust Property, the Trustees in recognition of their religious views are neither required nor expected to insure the Trust Property or any part thereof against fire or any other risk or liability whatsoever and shall not be personally liable or responsible in any way for any loss or damage to the Trust Property or any part thereof or any diminution of the Trust Property arising or resulting from any matter, cause or thing against which they might have insured.

5. Benefits to Trustees

- 5.1 A Trustee being a solicitor or accountant or person engaged in any other profession business or occupation may be employed in that capacity by the Trustees and shall be entitled to charge and be paid all professional and other charges for any business or act done by him or any firm of which he is a member or his or its clerks or employees in connection with the trusts hereof including any business or act which a Trustee not being a solicitor or accountant or person engaged in any other profession business or occupation could have done personally.
- 5.2 Subject to Clauses 2.2(u) and 5.1 the Trustees shall not nor shall any of them receive any compensation remuneration or benefit out of the Trust Property or in relation to the trusts hereof.

6. Protection to Persons Dealing with Trustees

No vendor, purchaser, mortgagee or other person of a like nature dealing in good faith with the Trustees shall in any way be concerned to enquire or see whether the occasion for performing or exercising any of the trusts hereof or any power conferred on the Trustees hereunder has arisen or whether any condition has been fulfilled or authority given or as to the purpose of the Trustee in performing or exercising any of the trusts or powers hereof or

whether any meeting has been held or has been regularly or properly convened or held or whether the provisions hereof or of the general law as to the appointment removal or retirement of Trustees have been observed or, otherwise howsoever as to the propriety or regularity of any act of the Trustees or to see to the application of any moneys paid to the Trustees and shall not be affected by the non-application of any moneys paid to the Trustees.

7. **Trustees – Numbers, Appointment, Retirement and Removal**

Number

7.1 The number of the Trustees shall be not less than three nor more than five.

Eligibility

7.2 No person shall be eligible to become a Trustee unless he is:

- (a) a person who fulfils the requirements of paragraphs (ii) and (iii) of Clause 1.1(f) and regularly attends meetings of Brethren at any meeting room situated on any part of the Trust Property and maintained by the Trustees for the Trust Purposes; or
- (b) a person appointed pursuant to Clause 7.16.

Nomination by Trustees

7.3 A Meeting of the Congregation may by unanimous resolution at any time or from time to time appoint a person to be one of the Trustees and this power may be exercised:

- (a) following the nomination by the Trustees to the Meeting of the Congregation of a person to be appointed; or
- (b) on the motion of a Member of the Congregation to the Meeting of the Congregation,

PROVIDED THAT no appointment of a Trustee shall be made the effect of which would be to increase the number of Trustees to more than five.

Appointment by Congregation

7.4 Whenever the number of Trustees is less than three the Trustees shall as soon as practicable nominate to a Meeting of the Congregation a person whom they propose should be appointed as a Trustee.

Trustee Act Not to Apply

- 7.5 The power of appointing new or additional trustees conferred by Section 36 of the Trustees Act 1925 as amended does not apply in this Deed (except as otherwise specifically provided).

Continuing Trustees May Act

- 7.6 Notwithstanding anything herein contained or implied the Trustees for the time being may perform and exercise all or any of their duties and powers hereunder although their number is less than three.

Retirement

- 7.7 A Trustee may retire from office by giving written notice to the other Trustees and shall do so if he ceases to be a Member of the Congregation PROVIDED THAT a Trustee who ceases to be a Member of the Congregation solely because the requirement in Clause 1.1(f)(i) is not fulfilled shall not be required to retire as Trustee if and while circumstances exist which would enable the power of appointment and removal provided by Clause 7.16 to be exercised.

Ceasing to Fulfill Requirements

- 7.8 A Trustee who ceases to fulfill the requirement of Clause 1.1(f)(iii) shall thereupon cease to be a Trustee.

Removal

- 7.9 Subject to Clauses 7.11-7.15 a Trustee may at any time or from time to time be removed from office by a unanimous resolution of a Meeting of the Congregation (which Meeting is hereafter in this Clause 7 referred to as "**the Meeting of the Congregation**").
- 7.10 Following any appointment or discharge by unanimous resolution of a Meeting of the Congregation under the foregoing provisions of this Clause a memorandum in evidence thereof shall be executed as a deed in accordance with the provisions of Section 334 of the Charities Act 2011 or any substituted statutory enactment for the time being in force or the Trustees may alternatively confirm any such appointment or discharge by deed reciting the governing resolution.

Appeal Against Removal

- 7.11 A Trustee who has been removed from office pursuant to Clauses 7.9-7.10 may, at any time within seven days after the Meeting of the Congregation, appeal against his removal to the Minister of the Lord in the Recovery by a letter posted to him and a copy of which is delivered to each of the other Trustees within that period of seven days.
- 7.12 A Trustee who has so appealed against his removal ("**the Appellant**") shall not, until the appeal has been determined, act in any way in the trusts hereof and the other Trustees may, until such determination is made, perform and exercise all the duties and powers of the Trustees in the same manner and to the same extent as if the Appellant were not a Trustee.
- 7.13 If the appeal of the Appellant is allowed he shall be deemed, but without prejudice to the powers of the other Trustees under Clause 7.12 pending the determination of his appeal, not to have been removed from office.
- 7.14 If the appeal of the Appellant is denied or if a Trustee, having been removed from office pursuant to Clause 7.7 does not appeal as herein provided, he shall be deemed to have been removed from office on the date of the Meeting of the Congregation.
- 7.15 The decision that an appeal in accordance with Clause 7.11 be allowed or denied shall be in writing in the stipulated form and shall be final and conclusive.

Appointment and Removal Where No Congregation

- 7.16 In the event that for any period in which whether because there is no meeting room maintained by the Trustees or for any other reason there are no Members of the Congregation as defined in Clause 1.1(f) or there are not sufficient Members to form a quorum for a meeting of the Congregation then the power to appoint a person to be one of the Trustees and the power to remove a Trustee from office shall vest in the Minister of the Lord in the Recovery PROVIDED THAT no appointment shall be made under this Clause 7.16 the effect of which would be to increase the number of Trustees to more than five; PROVIDED FURTHER THAT any exercise of the power of appointment or removal conferred by this Clause 7.16 shall be by Deed.

Certificates

- 7.17 A certificate or memorandum to the effect that:
- (a) a Trustee has retired from office by written notice in accordance with Clause 7.7; or
 - (b) a person has ceased to be a Trustee pursuant to Clause 7.8; or

- (c) a Trustee has been duly removed from office pursuant to Clauses 7.9-7.10 or Clause 7.16,

and signed by the Trustees other than that Trustee and also by any Trustee appointed to replace that Trustee shall, in favour of all persons, be conclusive evidence that the Trustee has retired, has ceased to be a Trustee or has been duly removed from office, as the case may be PROVIDED THAT a certificate that a person has ceased to be a Trustee pursuant to Clause 7.8 shall not be issued without a prior sanction of a unanimous resolution of a Meeting of the Congregation.

Former Trustee to Hand Over Books etc

- 7.18 A Trustee who for any reason ceased to be a Trustee whether by requirement, removal, the operation of any of the preceding provisions of this Clause 7 or otherwise shall forthwith deliver to the Trustees for the time being all books, records, documents and other material pertaining to the Trust which is in his possession or under his control.

8. Trustees - Proceedings

- 8.1 The Trustees shall have power to regulate the conduct of their business as such Trustees as they think fit.
- 8.2 The Trustees shall keep written minutes of their proceedings signed by at least two of the Trustees or, if there is only one Trustee, by that Trustee.

9. Cheques etc

Any cheque or order for payment of money signed by any two of the Trustees shall, if there be more than one Trustee, be valid and binding.

10. Accounts

Proper accounts showing the assets and liabilities of the Trustees as such Trustees and of all receipts and disbursements made by them hereunder shall be kept by the Trustees and as soon as may be after 5 April in each and every year the Trustees shall prepare a balance sheet as at 5 April and a statement of financial activities for the period of 12 months ending on 5 April or in the case of the first of such accounts for the period beginning with the commencement of the trusts hereof and ending on 5 April next thereafter.

11. Amendment of Deed of Trust

- 11.1 Subject to the succeeding sub-clauses of this Clause 11 this Deed may from time to time be amended in any respect by Deed executed by all the Trustees.
- 11.2 The Trustees shall not amend this Deed pursuant to Clause 11.1 or otherwise unless the proposed amendment has been previously sanctioned by the Minister of the Lord in the Recovery in writing in the stipulated form and, if a Congregation exists, by a unanimous resolution of a Meeting of the Congregation.
- 11.3 No amendment to this Deed shall be made if as a result thereof the trusts of this Deed (as so amended) would not be charitable or would for any reason fail.
- 11.4 Notwithstanding any failure to comply with Clause 11.2 or 11.3 a deed executed or purporting to be executed in accordance with Clause 11.1 shall in favour of all persons dealing with the Trustees in good faith be conclusive evidence that the provisions hereof have been duly amended pursuant to this Clause 11 according to the terms of that deed.

12. Declaration of Fellowship

- 12.1 For the purposes of this Deed:
- (a) a person is in fellowship with the Minister of the Lord in the Recovery if he believes and follows Holy Scripture and upholds the core doctrine and practices summarised in Schedules 1 and 2 to this Deed; and
 - (b) (in the event of doubt) the Minister of the Lord in the Recovery may by writing in the stipulated form declare whether any person is or was at the particular time in fellowship with the Minister of the Lord in the Recovery.
- 12.2 If a declaration made under Clause 12.1(b) conflicts with a certificate issued under Clause 7.17 then the Minister of the Lord in the Recovery may in writing in the stipulated form and with effect from the date thereof either:
- (a) confirm that the existing Trustees as at the date continue as the Trustees; or
 - (b) reinstate or remove the former Trustee, in which case the Minister of the Lord in the Recovery may also remove any of the existing Trustees as the Minister of the Lord in the Recovery considers appropriate to give effect to the reinstatement,

PROVIDED THAT in no case shall the number of the Trustees be increased to more than five.

13. Delegation

- 13.1 The Minister of the Lord in the Recovery ("**the Delegator**") may at any time or from time to time either generally, or as otherwise provided by the instrument of delegation, by writing in the stipulated form delegate to any person ("**the Delegate**") all or any of the powers or functions (other than the power to decide an appeal as provided for by Clauses 7.11-7.15 or the power of confirming or declaring as provided by Clause 14.9 conferred on him by this Deed including without limitation the power to sanction or confirm.
- 13.2 Subject to Clause 13.3 a power or function so delegated when exercised or performed by the Delegate shall for the purposes of this Deed be deemed to have been exercised or performed by the Delegator.
- 13.3 A delegation under this Clause may be made subject to a power of review or alteration by the Delegator within a period specified in the instrument of delegation of acts done or functions performed in pursuance of the delegation.
- 13.4 Without limiting the power of delegation conferred by this Clause a delegation under this clause:
- (a) may be revoked or varied in writing in the stipulated form at any time;
 - (b) does not prevent the exercise of a power or the performance of a function by the Delegator;
 - (c) may be made to more than one person to be exercised by those persons jointly or as otherwise specified in the instrument of delegation;
 - (d) may be made to a person who is not a Member of the Congregation;
 - (e) shall cease to be operative if the Delegate ceases to be a person who is in fellowship with the Minister of the Lord in the Recovery as described in Clause 12;
 - (f) does not confer a power to delegate.

14. Meetings of Congregation

- 14.1 The Trustees or any two Members of the Congregation ("**the Requisitionists**") may from time to time when they think fit for the purposes of this Deed call a Meeting of the Congregation.
- 14.2 The Trustees or Requisitionists shall have an unfettered discretion to determine the date, time and place of any such Meeting but shall (unless otherwise agreed by the Members of the Congregation then present and subject as hereinafter provided) give the Members of the Congregation notice thereof.
- 14.3 Notice of any such Meeting may be of any duration which the Trustees or the Requisitionists think fit and may be given to the Members of the Congregation in writing or orally at any Meeting of the Congregation or by telephone or in any other manner the Trustees or the Requisitionists think fit; in particular it shall not be necessary that notice be given to each Member of the Congregation or that the notice given to a Member of the Congregation be sufficient to enable him to attend the Meeting or that the nature of the business to be transacted at the Meeting be specified, either generally or particularly, in the notice.
- 14.4 It shall not be necessary to give any notice of a Regular Meeting other than the oral notice mentioned in Clause 1.1(h), and that notice need not specify, either generally or particularly, the nature of the business to be transacted at the Meeting.
- 14.5 Any power conferred by this Deed upon a Meeting of the Congregation may be exercised by any Regular Meeting or Special Meeting of the Congregation.
- 14.6 The Trustees or the Requisitionists shall appoint a person to be chairman of any Meeting of the Congregation and that person shall act as chairman of the Meeting.
- 14.7 A quorum for a Meeting of the Congregation shall be two Members of the Congregation.
- 14.8 For the purposes of this Deed a unanimous resolution of a Meeting of the Congregation is a resolution to which no Member of the Congregation present at the Meeting indicates that he objects.
- 14.9 In the event that a proposed resolution put to a Meeting of the Congregation is not passed unanimously at the Meeting, the Chairman shall forthwith send to the Minister of the Lord in the Recovery a written account of the Meeting and the proposed resolution and the Minister of the Lord in the Recovery may either confirm that the resolution should not have

been passed or make a declaration in writing in the stipulated form that the resolution should have been passed and in the event that such a declaration is made the proposed resolution shall for all purposes of this Deed have the same force and effect as if it were a unanimous resolution of a Meeting of the Congregation held on the day on which the declaration is made.

15. Name of Trust

The Trust constituted by this Deed shall be known as "**The Preston Down Trust**" or such other name as the Trustees resolve from time to time, provided that, if a Congregation exists, such resolution has been previously sanctioned by a unanimous resolution of a Meeting of the Congregation.

16. Winding Up

Trustees may Wind-up Trust

- 16.1 It is the intention of the Trustees that the Trust be a perpetual trust charitable at law, but the Trustees may at any time and for any reason determine that the Trust be wound up provided however that no such determination shall be made by the Trustees unless they have previously obtained the sanction of the Minister of the Lord in the Recovery in writing in the stipulated form and, if a Congregation exists the sanction of a unanimous resolution of a Meeting of the Congregation.

Surplus

- 16.2 If upon the winding-up or dissolution of the Trust, and after the satisfaction of all its debts and liabilities, there remains any property whatsoever, that property must be given or transferred to another fund or institution which has objects or purposes similar to the purposes of the Trust and which is charitable at law.

Schedule 1

Statement of Core Doctrine of the Brethren

The commencement of The Plymouth Brethren Christian Church can be traced back to 1827 when John Nelson Darby left the Established Church to hold the Lord's Supper in Dublin with four other like-minded persons. In 1847, Mr Darby published "*Separation from Evil, God's Principle of Unity*" and in 1853, Mr Darby published "*Grace, The Power of Unity and of Gathering*". Each of these papers was substantiated from the Holy Scriptures and set out the main Scriptural principles that governed his actions and confirmed the foundation of the Plymouth Brethren Christian Church. Brethren continue to follow the principles elucidated by Mr Darby in full. Brethren regard the Holy Scriptures, comprising the Old and New Testaments, as being the inspired and infallible Word of God and teaching the following core principles:

- 1) that there is one living God fully revealed to us in Christ and known through Him as Father, Son and Holy Spirit in the unity of the Godhead. All are God, all one God, God all three (1 Tim 2:5, John 1:18, Matt 28:19);
- 2) that the Word, who was with God and was God, was made flesh and dwelt among us, the Man Christ Jesus, the Father sending the Son to be the Saviour of the world (John 1:1,14, 1 Tim 2:5, 1 John 4:14);
- 3) that the Lord Jesus Christ gave Himself a ransom for all having died upon the cross. He has made propitiation for our sins and not for ours alone, but also for the whole world. The blood of Jesus Christ His son cleanses us from all sin (1 Tim 2:6, Phil 2:8, 1 John 2:2, 1 John 1:7);
- 4) that the glad tidings of God concerning His Son Jesus Christ as presented in the gospel is towards all and upon all those who believe (Rom 1: 1-4, Rom 3:22);
- 5) that after Christ's ascension upon high the Holy Spirit has been sent down to dwell in those who obey God both individually and in the Church collectively (Eph 4:8, Acts 2:4, Acts 5:32, 1 Cor 3:16);
- 6) that the Assembly of God which He has purchased with the blood of His own, is bound to keep itself pure in doctrine and godly walk. This purity is preserved by instruction in the

Scriptures, the exercise of pastoral care and infrequently where necessary, assembly discipline according to the Word of God (Acts 20:28, 1 Cor 5:7,13, 2 Tim 3:16, Eph 4:11);

- 7) that the oneness of God can only be known amongst those who are of Christ's Assembly which is holy and blameless and formed by those who keep themselves unspotted from the world. The collective Assembly position is inviolate and central to Christianity (1 Tim 2:5, Eph 5:27, James 1:27, Matt 16:18);
- 8) that in order to know union with Christ and unity with God, who is essentially separate from evil, it is necessary for us to separate from evil in this world (2 Cor 6:14-18, 1 John 2:15-17, 2 Tim 2:19-22, Matt 16:24-26);
- 9) that the Lord has left two rites or ordinances both representative of His death. One being baptism which signifies our identification with His death as separating us from the world. The other, a weekly collective celebration of the Lord's Supper, the remembrance of His death in the loaf speaking to us of His body and the cup speaking to us of His blood. This provides the enduring bond of our fellowship and unity with God (Acts 16:15, Rom 6:3, 1 Cor 11:23-25);
- 10) that the sanctity of the marriage bond is regarded at the highest level. It has been instituted in paradise and confirmed by the Lord Himself when here below. It is doubtless the providential bond of all moral order in the world and meant to be representative in type of Christ's relationship with His Assembly (Eph 5:25-26, Gen 2:21-24, Matt 19: 4-6);
- 11) that we should hold aloof from every form of wickedness in our daily walk so that God Himself can sanctify our spirit, soul and body to be preserved holy and blameless at the coming of the Lord Jesus Christ (1 Thess 5:22-23);
- 12) that Christ will come again at the Rapture to receive all believers in Jesus to Himself raising those that are His, or changing them if living, fashioning their bodies like unto His glorious body according to the power by which He is able to subdue all things to Himself (1 Thess 4: 14-17, Phil 3:21, Acts 2:21, 2 Tim 2:19);
- 13) that soon after the Rapture the Lord will return to the earth in company with His saints to meet the man of sin who becomes the complete embodiment of all lawlessness against the only true God and Jesus Christ and whom Christ will consume and destroy with the breath of

His mouth and annul by the power of His presence which will terminate the reign of sin on the earth which came into being at the fall of Adam and Eve (2 Thess 2:8-9); and

- 14) that God has appointed a day in which He will judge this habitable world in righteousness by that Man whom He has ordained. (Acts 17:31).

Schedule 2

Faith in Practice

1. The fundamental principles of our faith are those contained in Holy Scriptures known as the Holy Bible (being the King James Version or a New Translation from the original languages by JN Darby) which are comprised of the Old and New Testaments ("**Holy Scripture**"), and in particular those identified in the statement of doctrinal principle at Schedule 1 of the Trust's Trust Deed.³²
2. The following elements of that statement of doctrinal principle are particularly relevant to the aspects of the undertaking of our daily lives in this world which are dealt with in this Schedule:
 - 1) that the Assembly of God which He has purchased with the blood of His own, is bound to keep itself pure in doctrine and godly walk. This purity is preserved by instruction in the Scriptures, the exercise of pastoral care and infrequently where necessary, assembly discipline according to the Word of God (Acts 20:28, 1 Cor 1:1-9, 1 Cor 5:7,13, 2 Tim 3:16, Eph 4:11);
 - 2) that the oneness of God can only be known amongst those who are of Christ's Assembly which is holy and blameless and formed by those who keep themselves unspotted from the world. The collective Assembly position is inviolate and central to Christianity (1 Tim 2:5, Eph 5:27, James 1:27, Matt 16:18);
 - 3) that in order to know union with Christ and unity with God, who is essentially separate from evil, it is necessary for us to separate from evil in this world. (2 Cor 6:14-18, 1 John 2:15-17, 2 Tim 2:19-22, Matt 16:24-26);
 - 4) that the Lord has left two rites or ordinances both representative of His death. One being baptism which signifies our identification with His death as separating us from

³² Extracts from the Holy Scriptures referred to in this Schedule are only a guide to the many Scriptures in support of our way of life and the principles which govern our gathering.

the world. The other, a weekly collective celebration of the Lord's Supper, the remembrance of His death in the loaf speaking to us of His body and the cup speaking to us of His blood. This provides the enduring bond of our fellowship and unity with God. (Acts 16:15, Rom 6:3, 1 Cor 11:23-25); and

- 5) that we should hold aloof from every form of wickedness in our daily walk so that God Himself can sanctify our spirit, soul and body to be preserved holy and blameless at the coming of the Lord Jesus Christ. (1 Thess 5:22-23).

3. Separation

- 1) The principle of separation outlined at paragraph 2 above involves drawing away from the world in a moral sense, rather than in a physical sense. It represents a commitment to those with whom we celebrate the Lord's Supper, and involves choosing to celebrate the Lord's Supper and to eat and drink together in social fellowship only with those persons. Eating and drinking in social fellowship with other persons who share our faith represents a bond of Christian fellowship with them (1 Cor 10:18-31). As a consequence, the Lord's Supper is the centre of our lives and it promotes a foundation for the bond of Christian fellowship and our commitment to the Lord Jesus Christ. (1 John 1:3, 7, Eph 5:11).
- 2) Within the parameters set out above, the principle of separation permits inter-personal communication and social interaction with non-Brethren (including former Brethren) and service to them - because we seek to do good to all in the world, as opportunities arise. (2 Cor 9:6-8, Gal 6:10).
- 3) Those in fellowship must ultimately exercise their own judgment in the practice of separation both from those (family, friends, colleagues) they leave when joining the Brethren community, and from those (family, friends, colleagues) who choose to leave the Brethren community. They exercise this judgment based upon their understanding and appreciation of Holy Scripture, the guidance provided in Ministry (now including this statement of doctrinal principle), and the exemplary practice of fellow members of the community.
- 4) The nature, and extent, of inter-personal communication and social interaction between those within and outside the community – including former Brethren – is therefore based upon a continuous and personal assessment by each member of the community of whether such communication is consistent with Holy Scripture and his or her committal to the bond of the Lord's Supper. The principle of separation permits inter-personal communication and social interaction between those within

and those outside the community – including with former Brethren – (except for the celebration of the Lord's Supper and eating and drinking in social fellowship which, as noted in paragraph 3(1) above, is confined to members of the community), and indeed this is necessary and desirable in all sorts of contexts.

- 5) An example of the practical consequence of the principle of separation is that we abstain from media used for the delivery of the entertainments of the world (such as television, radio and other electronic technology and the internet) but this does not extend to education and business activities where the use of electronic technology and the internet are accepted for the purpose of modern communication.
- 6) Our adherence to these principles should never stop us offering to the wider public (including former Brethren) the opportunity to attend and benefit from our system of Christian worship in accordance with paragraph 4 below, or to learn from us the benefits of a Christian life. Nor should these principles ever result in us acting other than in accordance with the law, or at any time in a manner that lacks compassion, care, or fails to pay due regard to the needs or vulnerabilities of others. A person who acts otherwise is not acting in accordance with our doctrine or beliefs. Some practical examples are set out in the paragraphs that follow.

4. Worship

- 1) The services of worship conducted in each gospel hall included in the property of the Trust (other than the Lord's Supper and services convened for a particular family or by a visiting elder, minister, servant or evangelist for the benefit of a congregation gathering by way of special invitation) should be open to all properly disposed persons who wish to be present and observe such worship. "**Properly disposed persons**" are members of the public (whether members of the Brethren or not) who: (1) respect the gospel hall as a sacred place, (2) do not threaten the safety or privacy of the Assembly, and (3) come to the service in a spirit of gravity, genuinely wishing to learn from the teachings that are given there.
- 2) We should ensure that a gospel hall in every locality displays prominently outside its premises a sign indicating how persons from outside the community (including former Brethren) can attend a hall for worship.
- 3) We should offer to people who attend our gospel halls for worship from outside the community (including former Brethren) the opportunity to better understand our faith and services, through literature or in person.

5. Living a Christian Life

- 1) We seek and are encouraged to live exemplary lives in all our relationships with others in the wider community (including former Brethren), in accordance with the teachings of Holy Scripture (1 Tim 2:2).
- 2) We regularly go out from our homes to preach on the streets, to distribute Christian literature and engage with the wider community (including former Brethren) in order to present eternal salvation, available to all men by faith in Jesus Christ. (2 Tim 4:2).
- 3) We seek as members of the public to lead Christian lives as husbands and wives, parents, children, employers, employees and neighbours. (Col 3:22-25, Col 4:1).
- 4) The preservation and protection of the family unit is fundamental and children are prized as a blessing from God. (Psalm 127:3-5). The elderly are valued members of the community, for whom both their family and the wider community are expected to care.
- 5) Holy Scripture commands us to be good neighbours to others, and deal with all other people (including former Brethren) openly, honestly and fairly and consistent with these principles, we should give our time, talents and money to assist those in need in the wider community, in so far as reasonable given our abilities and our available resources. (Matt 7:12, Matt 22:39, Eph 4:28).

6. Compassion

- 1) As Christians, we are to follow the example of our Saviour, Jesus Christ, and show compassion to others. (Prov 19:17, Luke 10:33-37, 1 Cor 12:25-26, 1 Peter 3:8).
- 2) We are expected to care for those who are receptive to such care in our own community, but then also in the wider community (including former Brethren), to the best of our abilities and within our resources. (Gal 6:10, 2 Cor 1:3).
- 3) In circumstances necessitating pastoral care including but not limited to where fault occurs (Gal 6:1), then pastoral care is provided. When church admonition is necessary, due provision will be made for the welfare of the church member who is under review. This should cover emotional, health, family and financial considerations (1 Tim 5:8). The Holy Scriptures require the practice of admonition and discipline to reflect justice and fairness.

- 4) Persons investigating any matter should be those that are morally and spiritually qualified in order to display the necessary advocacy for and humility towards the person concerned (1 John 2:1). This must include the ability to ascertain whether the person being cared for shows repentance and contrition (Psalm 32 1,2, Psalm 51:1-4). After the facts are accurately obtained, discernment and judgement must be based on the correct application of the Holy Scriptures. Spiritual persons apply these principles in a manner that will cause the least damage, including reputational damage as regards what is disclosed publicly to the Assembly.
- 5) Where the spiritual persons discern that God has forgiven the person concerned but the matters confessed to by the person concerned extend beyond a fault and need to be settled in the Assembly the first principle for the Assembly to consider is remission and forgiveness on the basis of the Holy Scriptures. Scriptures to refer to include the following: Gal 6:1, John 20:23, 2 Thess 3:6, 14-15, 1 Tim 5:20, 2 Tim 2:19-21, 1 Cor 5:5, 13.
- 6) If repeated pastoral care is unsuccessful then the next stages of admonition could include (1) inviting the person being cared for to attend a meeting of the Assembly to listen to an appeal and if suitable to present their differences; (2) a "shrinking" from the person concerned (which involves minimising social contact with the person for a limited period to provide them with the space and time to make a private and personal choice about their continuing in the fellowship), which is relatively rare as pastoral care is intended and does in most cases resolve the matter (Gal 6:1); and (3) the final stage of Assembly admonition would be excommunication this being necessary when a person leaves and separates themselves from the Assembly entirely on their own personal decision and accord, in which case their position as a member of the Assembly becomes untenable, and in other very rare cases where excommunication is necessary as an extreme or last resort measure for serious misdeeds wholly at odds with basic scriptural teaching. Even in cases of excommunication, there is follow up pastoral and shepherd care in view of the possibility of re-including the person concerned in fellowship and the restoration of him or her to full privileges as a member of the Assembly, if he or she wishes.
- 7) No action should be taken in any way to treat vindictively, maliciously or unfairly persons whether within or outside the community, including those who were within the community and who are leaving or have left the community. Every care should be taken to provide for and support the welfare and education of children and young persons within the community. Where persons seek to leave the community, reasonable assistance should be afforded to them in terms of support and/or financial

assistance relating to employment or other matters, where they have been dependent on the community for that support. Reasonable steps should also be taken in these cases (consistent with and subject to any legal requirements applying to the persons involved and the human rights of the persons involved) to allow the continuation of family relationships where a family member has left the community, including providing access to family members, in particular children. Where a person within the community dies, the principle of separation allows members of the extended family of the deceased, including former Brethren, to attend their funeral service. Any people attending a funeral service (whether from within or outside the community) should respect the wishes and beliefs of the deceased, behave with dignity and be treated considerately.

- 8) Where legal redress needs to be taken in relation to breaches of the law affecting the church, a proportionate and preventative approach should be taken.

DRAFT

SIGNED as a DEED by)

MICHAEL SIMON BESLEY)

in the presence of:)

Witness Signature:

Witness Name:

Address:

Occupation:

SIGNED as a DEED by)

LAURENCE EDWARD BUCKLEY)

in the presence of:)

Witness Signature:

Witness Name:

Address:

Occupation:

SIGNED as a DEED by)

MICHAEL DAVID SCOTT)

in the presence of:)

Witness Signature:

Witness Name:

Address:

Occupation:

SIGNED as a DEED by)

ANTHONY DAVID WALLIS)

in the presence of:)

Witness Signature:

Witness Name:

Address:

Occupation:

SIGNED as a DEED by)

JOHN DUDLEY WALLIS)

in the presence of:)

Witness Signature:

Witness Name:

Address:

Occupation:

DRAFT