Chapter 13: Cy près

1) ‘The Cy Près doctrine has always applied in cases where there has been a clear and unequivocal dedication of property to charitable purposes. Since the nineteenth century however, the courts have been prepared to take a more flexible view, and to apply Cy Près in circumstances where a gift, for some reason fails *ab initio* where it can be shown that the donor had a general paramount charitable intention’.

In discussing this statement, consider how the courts have interpreted the concept of “general paramount charitable intention”, and how and where it has been applied in the case law.

**Brief guidance notes:**

This is a good question for touching base with the legal rules which come into play when it is not possible for property to be applied to the charitable purposes for which it is intended. This question is directed to ‘initial’ failure of a charitable gift, and some introduction to failure of charitable gifts, and of distinguishing initial from subsequent failure of charitable gifts is the most appropriate starting point. Thereafter, discussion will need to proceed through considering the leading case law in a manner according to the instructions.