

# The Advancement of Religion for the Public Benefit



The Charity Commission is the independent regulator of charities in England and Wales. Its aim is to provide the best possible regulation of charities in England and Wales in order to increase charities' effectiveness and public confidence and trust. Most charities must register with the Commission, although some special types of charity do not have to register. There are some 190,000 registered charities in England and Wales. In Scotland the framework is different, and the Commission does not regulate Scottish charities.

The Commission provides a wide range of advice and guidance to charities and their trustees, and can often help with problems. Registered charities with an annual income of over £10,000 must provide annual information to the Commission. The Commission has wide powers to intervene in the affairs of a charity where things have gone wrong.

# Contents

<b>A. Foreword</b>	<b>3</b>
<b>B. Introduction</b>	<b>4</b>
<b>C. The advancement of religion</b>	<b>8</b>
<b>D. Public benefit - Principle 1: There must be an identifiable benefit or benefits</b> (supplementary public benefit guidance)	<b>11</b>
<b>E. Public Benefit - Principle 2: Benefit must be to the public, or a section of the public</b> (supplementary public benefit guidance)	<b>14</b>
<b>F. Reporting on public benefit</b> (supplementary public benefit guidance)	<b>19</b>
<b>G. Assessing public benefit</b>	<b>20</b>
<b>Annex A: Characteristics of a religion</b>	<b>23</b>
<b>Annex B: Examples of ways in which charities can advance religion</b>	<b>24</b>
<b>Annex C: Examples of what might constitute detriment or harm</b>	<b>27</b>

Guidance from the Charity Commission about the advancement of religion. This includes supplementary public benefit guidance for charities whose aims include advancing religion.



## A. Foreword

**A message from the Chair and the Chief Executive of the Charity Commission to trustees of existing charities, and anyone thinking of setting up a new charity, whose aims include advancing religion.**

### **Dear Reader,**

Historically, the concept of charity has often been closely linked with a religious sense of duty about helping others. One of the reasons why the advancement of religion has been recognised as something that is for the public benefit is because of this connection between religion and charitable endeavour. Much of that charitable endeavour is now recognised in its own right in other charitable aims, such as the prevention or relief of poverty, but the advancement of religion for the public benefit is also a charitable aim.

Religious belief and faith has, by its nature, both personal and public dimensions. In relation to public benefit, it is the public dimension that is of primary importance. Where religion helps to provide a moral and ethical framework for people to live by it can play an important part in building a better society.

There are approximately 29,000 charities on the Charity Commission's Register with aims that include advancing religion. This number will increase as those charities whose aims include advancing religion which were previously excepted from the requirement to register will shortly be required to register. Under the Charities Act 2006, all will have to demonstrate that the way in which they carry out their aims is for the public benefit, as do all other charities.

We appreciate that some trustees of charities whose aims include advancing religion may find it difficult to put into words how their charity operates for the public benefit. This guidance, tailored to the particular needs of those charities, is designed to help them do so. We hope that trustees find it helpful.



**Dame Suzi Leather**  
Chair

**Andrew Hind**  
Chief Executive

## B. Introduction

### B1. What is this guidance about?

**L** Our guidance *Charities and Public Benefit* explains in general terms what the public benefit requirement means. This guidance is about how the principles of public benefit set out in *Charities and Public Benefit* relate specifically to charities concerned with advancing religion.

Sections **D**, **E** and **F** are supplementary public guidance which form part of our statutory guidance on public benefit. Trustees of charities whose aims include advancing religion must have regard to this.

This guidance also explains the meaning of the advancement of religion.

### B2. What is the 'public benefit requirement'?

**L** 'Public benefit' is the legal requirement that every organisation set up for one or more charitable aims must be able to demonstrate that its aims are for the public benefit if it is to be recognised and registered as a charity in England and Wales. This is known as the **public benefit requirement**.

Charitable aims are those that fall within the various descriptions of purposes in the Charities Act 2006 (including any new purposes that might be recognised as charitable in the future) and which are for the public benefit. You can find out more about this in our *Commentary on the Descriptions of Charitable Purposes in the Charities Act* on our website.

Although all charities have always had to meet the public benefit requirement, the Charities Act highlights it by requiring all charities to demonstrate, explicitly, that their aims are for the public benefit, including charities advancing education or religion, or relieving poverty, which were previously presumed to be for the public benefit.

We have an obligation to ensure all charities meet the public benefit requirement and to provide guidance on what the requirement means. Charity trustees have a legal duty to have regard to our public benefit guidance and to report on their charity's public benefit.

### B3. What are the principles of public benefit?

**L** The two key principles of public benefit are that there must be an identifiable benefit or benefits, and benefit must be to the public, or a section of the public. These are explained more fully in *Charities and Public Benefit*.

Within each principle there are some important factors that must be considered in all cases. These are:

#### **Principle 1: There must be an identifiable benefit or benefits**

- 1a** It must be clear what the benefits are
- 1b** The benefits must be related to the aims
- 1c** Benefits must be balanced against any detriment or harm

#### **Principle 2: Benefit must be to the public, or section of the public**

- 2a** The beneficiaries must be appropriate to the aims
- 2b** Where benefit is to a section of the public, the opportunity to benefit must not be unreasonably restricted:
  - by geographical or other restrictions; ~~or~~
  - ~~by ability to pay any fees charged~~

*This text has been withdrawn following the recent decision of the Upper Tribunal about the Commission's guidance on public benefit and fee-charging in relation to educational charities. This part of the guidance no longer forms part of our statutory guidance on public benefit to which charity trustees must have regard when carrying out any powers or duties to which the guidance is relevant. We are now in the process of revising our guidance about what trustees must now have regard to in relation to fee charging charities. In the meantime, details regarding the Upper Tribunal's judgment and interim advice for trustees can be found on our website*

- 2c** People in poverty must not be excluded from the opportunity to benefit
- 2d** Any private benefits must be incidental

Each of a charity's charitable aims must satisfy these principles.

## B4. Using this guidance

### L

This guidance represents our interpretation of the relevant charity law; it is not the law itself.

However, charity trustees do have a statutory duty to have regard to our guidance on public benefit where it is relevant for their charity. This means they should be able to show that:

- they are aware of the guidance;
- in making a decision where the guidance is relevant, they have taken it into account; and
- if they have decided to depart from the guidance, they have good reasons for doing so.

Section **C** explains what a religion is for the purposes of charity law and the meaning of the advancement of religion.

Section **D** (supplementary public benefit guidance) explains how public benefit principle 1: There must be an identifiable benefit or benefits, applies specifically to charities whose aims include advancing religion.

Section **E** (supplementary public benefit guidance) explains how public benefit principle 2: Benefit must be to the public, or a section of the public, applies specifically to charities whose aims include advancing religion.

Section **F** (supplementary public benefit guidance) explains how to report on public benefit.

Section **G** explains how we assess public benefit.

**Annex A** gives details of the characteristics of a religion.

**Annex B** gives examples of ways in which charities can advance religion.

**Annex C** gives examples of what might constitute detriment or harm.

## B5. 'Must' and 'should': what we mean

In this guidance, where we use '**must**', we mean it is a specific legal or regulatory requirement affecting trustees or a charity. Trustees must comply with these requirements. To help you easily identify those sections that contain a legal or regulatory requirement we have used the **L** symbol next to that section.

We use '**should**' for items we regard as minimum good practice, but for which there is no specific legal requirement. Trustees should follow the good practice guidance unless there is a good reason not to.

## B6. Some technical terms used

The following terms are used throughout this guidance, and should be interpreted as having the specific meanings given below.

**The Charities Act:** the Charities Act 1993 as amended by the Charities Act 2006; or, where applicable, the Charities Act 2006.

**Activities:** what organisations do in order to carry out their aims.

**Aims:** the purposes of an individual organisation. It is important to be able to distinguish clearly in this guidance between an individual organisation's purposes and charitable purposes in general. We have therefore used the term 'aims' as shorthand for the purposes of an individual charity or an organisation applying for registration as a charity.

**Audit threshold:** under the Charities Act, for financial years ending on or after 1 April 2009, an audit is required when a charity's gross income in the year exceeds £500,000, or where income exceeds £250,000 and the aggregate value of its assets exceeds £3.26 million. For financial years beginning on or after 1 April 2008, but ending before 1 April 2009, the same gross income threshold applies but with a lower assets threshold of £2.8m applying when gross income exceeds £100,000.

**Beneficiary or beneficiaries:** the people an organisation's aims are intended to benefit. For charities whose aims include advancing religion beneficiaries include followers or adherents, potential followers or adherents and the wider public.

**Excepted charities:** over the years some groups of charities, including some charities whose aims include advancing religion, were excepted from the obligation to register with us. The Charities Act will now require some of these charities to register.

**Governing document:** a legal document setting out the charity's aims and, usually, how it is to be administered. It may be a trust deed, constitution, memorandum and articles of association, will, conveyance, Royal Charter, Scheme of the Charity Commission, or other formal document.

**Larger charities:** charities whose income and/or assets are above the audit threshold.

**Objects:** an organisation's aims are usually expressed in the 'objects clause' of its governing document.

**Private benefit:** any benefits that a person or organisation receives other than as a beneficiary of a charity. It does not, therefore, include the sorts of personal benefits people receive as a beneficiary, such as being a follower or an adherent of a religion.

**Public benefit reporting requirement:** the statutory requirement for charity trustees to report in their Trustees' Annual Report on their charity's public benefit.

**Purpose(s) and charitable purpose(s):** in this guidance we use the term '**purposes**' when referring to the descriptions of purposes listed in the Charities Act. These describe broad areas of potentially charitable activity but there is no automatic presumption that an organisation with a stated aim or object that falls within one of the descriptions of purposes is charitable. To be a '**charitable purpose**' it must be for the public benefit. This has to be demonstrated in each case.

**Smaller charities:** charities whose income and/or assets are below the audit threshold.

**SORP:** the Statement of Recommended Practice, issued in March 2005 which sets out the recommended practice for the purpose of preparing the Trustees' Annual Report and for preparing the accounts on an accruals basis. The accounting recommendations of the SORP do not apply to non-company charities preparing receipts and payments accounts.

**Statutory guidance on public benefit:** the guidance on public benefit that we are required to produce under section 4 of the Charities Act.

**The public generally:** the public in general; the rest of the public not covered by a defined class of beneficiaries.

**The Tribunal:** the First-tier Tribunal (Charity), established by the Charities Act, is the first level of appeal against our legal decisions.

**The Upper Tribunal:** The Upper Tribunal (Tax and Chancery Chamber) is the second level of appeal against legal decisions of the Commission. It hears appeals against decisions of the Tribunal. It can also hear References from the Attorney General or the Charity Commission on a point of law and applications for judicial review of Charity Commission decisions on transfer from the Administrative Court.

**Trustees:** the people who serve on the governing body of a charity. They may be known as trustees, directors, board members, governors or committee members, church council members, deacons, elders or management committee members. Charity trustees are responsible for the general control and management of the administration of a charity.

## **B7. To what public benefit guidance must charity trustees have regard?**

**L** Charity trustees must have regard to all of our statutory public benefit guidance that is relevant to their charity.

Therefore, all charity trustees must have regard to our general public benefit guidance, *Charities and Public Benefit*.

In addition, charity trustees must have regard to the statutory guidance contained in our supplementary public benefit guidance on any subject that is relevant to their charity's aims, or the way in which they carry out those aims. (We indicate in our guidance which elements are supplementary public benefit guidance which forms part of our statutory guidance on public benefit.)

For example, a charity might have multiple charitable aims and charge fees for the charity's services or facilities. The trustees must therefore have regard to the supplementary public benefit guidance we have produced for each of the charity's aims, as well as our guidance on public benefit and fee-charging.

If we have not produced supplementary public benefit guidance in relation to one or more of your charity's aims, you need to apply the principles as set out in *Charities and Public Benefit* to those aims.

Please see our website for details of all of our public benefit guidance that is available.

Our website also contains details of our other guidance and publications.

### **B8. What other guidance regarding the advancement of religion is available?**

The legal underpinning for this guidance is set out in our *Analysis of the law underpinning The Advancement of Religion for the Public Benefit*.

Our *Example Trustees' Annual Reports and Accounts* includes an example of how a charity advancing religion might report on its public benefit. We shall be adding to these examples in the future.

This guidance is directed at charities whose aims include advancing religion. It is not directed at faith-based charities as a whole, or bodies primarily working for the advancement of human rights, conflict resolution or reconciliation, or the promotion of religious or racial harmony or equality and diversity. However, charities operating in those areas, and faith-based charities, may be interested in our separate guidance, which are not part of our supplementary public benefit guidance:

- *The Promotion of Human Rights (RR12)*
- *Promotion of Religious Harmony for the Benefit of the Public*
- *An introduction to the Faith and Social Cohesion Unit (FSCU)*
- *Registering as a faith based charity*
- *Working with Faith Groups: The Charity Commission Faith Groups Programme 2004-07*
- *Faith in Focus* (our Faith and Social Cohesion Unit's newsletter).

All of this guidance is available on our website, and

- *Trusteeship. An Introduction for PCC Members* (which we have produced together with the Archbishops' Council) is available from [www.parishresources.org.uk/pccs.htm](http://www.parishresources.org.uk/pccs.htm)

## C. The advancement of religion

### C1. How is a religion defined for the purposes of charity law?

For the purposes of charity law, a religion is a system of belief that has certain characteristics that have been identified in case law and clarified in the Charities Act 2006.

In our role as registrar and regulator of charities, we can provide guidance to clarify the effect that the partial definition in the Charities Act has in relation to existing case law. (Further guidance on this can be found in our *Analysis of the law underpinning The Advancement of Religion for the Public Benefit*.)

Section 2(3) of the Charities Act states that:

*“religion includes:*

- (i) a religion which involves a belief in more than one god, and*
- (ii) a religion which does not involve a belief in a god.”*

The intention of the legislation was to make clear that religions that involve belief in more than one god and those that do not involve a belief in a god are included within the meaning of religion derived from existing case law.

### C2. What are the characteristics of a religion for the purposes of charity law?

**L**

When considering whether or not a system of belief constitutes a religion for the purposes of charity law, the courts have identified certain characteristics which describe a religious belief. These characteristics include:

- belief in a god (or gods) or goddess (or goddesses), or supreme being, or divine or transcendental being or entity or spiritual principle, which is the object or focus of the religion (referred to throughout this guidance as ‘supreme being or entity’);
- a relationship between the believer and the supreme being or entity by showing worship of, reverence for or veneration of the supreme being or entity;

- a degree of cogency, cohesion, seriousness and importance;
- an identifiable positive, beneficial, moral or ethical framework.

For further details of these characteristics see Annex A.

**Use of terminology:** whilst, to be charitable, an organisation advancing religion must show that the religion involves belief in a supreme being or entity, it does not have to use that terminology in its objects or literature when referring to, or describing, that supreme being or entity.

In the same way, it is not necessary for a charity advancing religion to use the term ‘worship’ for example when referring to, or describing, the relationship between the followers and adherents and the supreme being or entity, if that terminology is not appropriate for that religion.

### C3. What does it mean to *advance* religion for the public benefit?

**L**

To be charitable religion must be advanced.

In general to ‘advance’ a religion means to promote or maintain or practice it and increase belief in the supreme being or entity that is the object or focus of the religion.

Examples of ways in which charities can advance religion for the public benefit can be found at [Annex B](#).

**Seeking new followers:** it is not necessary for all charities whose aims include advancing religion to seek new followers or adherents. In the case of some religions (such as Sikhism), followers or adherents are born into the religion and people who are not born into the religion are not able to convert to it. In those cases, the ‘advancement’ of the religion will not be concerned with encouraging people to join the religion, since that is determined by birth, but may be concerned with the personal and social effects of the religion being practised by such followers or adherents.

**Promoting particular tenets of religion:** some charities whose aims include advancing religion might choose to concentrate on promoting particular tenets of the religion in order to further what they believe to be an inherently important aspect of that religion. Provided the purpose is not so narrow as to produce either insufficient public benefit or have little consideration for the broader teachings of the religion, this should not affect the organisation's charitable status.

For example, a charity advancing the Islamic religion might focus on enabling Muslim people in hospital to observe the requirements of the Islamic Halal practice.

#### **C4. Is everything that is done in the name of religion advancing religion for the public benefit?**

It is not enough that an organisation does something in the name of religion in order for it to be a charity advancing religion. It has to be shown that the aim of the organisation is to advance the religion in a way that is for the public benefit, and not to further some other, non-charitable, aim.

Charities whose aims include advancing religion should, like all charities, operate within the framework of the law that is applicable to them, for example in campaigning on political or other issues. Religion cannot be used as a 'cover' to express opinions which would not be for the public benefit if expressed by a non-religious organisation. There must be a link to a religion and the opinions must emanate from that belief system and observe the law of England and Wales.

#### **C5. What do charities whose aims include advancing religion need to consider when drafting what they do as a charitable aim?**

**L** A charity's aims are usually found in the objects clause of its governing document, which should adequately and fully express what the organisation is set up to do. All of a charity's aims should be set out in its objects clause.

However, not all charities whose aims include advancing religion have a governing document which sets out its aims in this way.

For example, in the Church of England, Parochial Church Councils (PCCs) are governed by an ecclesiastical measure which sets out some of the 'functions' of a PCC which form the basis of the aims.

Any charity in doubt about what its aims are should seek advice from an appropriate governing body or from us.

The aims are essential when considering the public benefit of any charitable organisation because:

- each of a charity's aims must be for the public benefit;
- only benefits that arise from carrying out those aims can be taken into consideration; and
- the beneficiaries must be appropriate to the aims.

It can sometimes be difficult to word the objects clause as a charitable aim in a way that the law recognises as charitable. An incorrectly worded objects clause, or an objects clause that does not correctly express the organisation's aims, might not only cause problems when registering the organisation, it can also lead to difficulties when assessing the organisation's public benefit.

With charities whose aims include advancing religion, it should be clear exactly what religion is being advanced and whom the organisation's aims intend to benefit and how.

The following are some examples of the ways in which charities whose aims include advancing religion might express those aims in their objects clause. This is not a definitive list:

- “To advance the [insert basis of faith] [faith] [religion] for the benefit of the public in accordance with [the statements of belief appearing in the schedule] [the following doctrines: ...]”
- “The advancement of the [insert basis of faith] religion mainly, but not exclusively, by means of broadcasting [insert basis of faith] messages of an evangelistic and teaching nature.”
- “To advance the [insert basis of faith] religion in [insert area of benefit] for the benefit of the public through the holding of prayer meetings, lectures [public celebration of religious festivals] producing and/or distributing literature on [insert basis of faith] to enlighten others about the [insert basis of faith] religion”.

**Changing objects:** where a charity reviews its aims and considers that they need to be updated to reflect accurately what it does, we can advise on this. We will consider what the charity does and how this can best be reflected in its objects clause in a way that is consistent with charity law.

#### C6. Can a charity have aims that are political?



To be a charity an organisation must be established only for charitable aims, which are for the public benefit. A charity cannot exist for a political aim, which is any aim directed at furthering the interests of any political party, or securing or opposing a change in the law, policy or decisions either in England or Wales or in other countries. An organisation will not be charitable if its aims are political.

Campaigning and political activity can be legitimate and valuable activities for charities to undertake. Charities can campaign for a change in the law, policy or decisions where such change would support the charity’s aims. Charities can also campaign to ensure that existing laws are observed.

However, political campaigning, or political activity must be undertaken by a charity only in the context of supporting the delivery of its charitable aims. Unlike other forms of campaigning, it must not be the continuing and sole activity of the charity.

There may be situations where carrying out political activity is the best way for trustees to support the charity’s advancement of religion aims. A charity may choose to focus most, or all, of its resources on political activity for a period.

The key issue for charity trustees is to ensure that this activity is not, and does not become, the reason for the charity’s existence.

An organisation cannot be established with the aim of calling for changes in the law because of its interpretation of religious beliefs. This would be regarded as a political aim and therefore not charitable.

Religion cannot be used as a way of advancing a political viewpoint which happens to be held by a religious person.

For further information see our separate guidance *Speaking Out: Campaigning and Political Activity by Charities* (CC9).

#### C7. What is the effect of the Charities Act on charities whose aims include advancing religion that are currently excepted from the requirement to register?

There are some charities whose aims include advancing religion that are currently excepted from the requirement to register as a charity. Changes introduced by the Charities Act mean that that exception will no longer continue and so those charities will, starting in February 2009, be required to register. Initially, only excepted charities with an annual income of £100,000 or over will have to register. Those under the £100,000 threshold do not currently have to register, but are still subject to our regulatory authority.

This £100,000 threshold is an interim level and may be reduced in the future following a review of the Charities Act. There will be a review of the Charities Act five years after its implementation. Part of the registration process includes demonstrating that the public benefit requirement will be met. However, for many types of charity, approved governing documents and special arrangements regarding registration (including the need to demonstrate public benefit) are being agreed with relevant umbrella bodies to simplify this process. Please see our website under ‘Registering a Charity’ for further details.

# D. Public benefit - Principle 1: There must be an identifiable benefit or benefits

This section is supplementary public benefit guidance which forms part of our statutory guidance on public benefit.

## D1. Key questions for charity trustees

*Charities and Public Benefit* sets out the following important points to consider when deciding whether an organisation's aims meet the 'benefit' principle of the public benefit requirement:

**Principle 1a** It must be clear what the benefits are

**Principle 1b** The benefits must be related to the aims

**Principle 1c** Benefits must be balanced against any detriment or harm

Section G8 of *Charities and Public Benefit* suggests a number of questions which charity trustees may find useful as a way of self-assessing the 'benefit' aspect of their charity's public benefit, and to provide information that will help assess whether or not an organisation's aims are for the public benefit.

The guidance contained in this section is structured around those questions. It sets out some key things for trustees of charities whose aims include advancing religion to think about when considering each of the questions.

**Assessing public benefit:** it is not relevant for the purposes of charity law whether the substance of religious doctrines can be proven to be 'true'. As between different religions the law is neutral. However, whether a religious organisation's aims are for the public benefit is a question of judgement. We have to decide (as would the Tribunal, Upper Tribunal or the Courts) whether there is public benefit in the light of the evidence and facts before us.

## D2. What are the benefits that arise from your organisation's aims?

**L** (This question relates to public benefit principles 1a and 1b)

To be recognised as charitable, all organisations advancing religion must be able to show that there is a moral or ethical framework which is promoted by the religion.

In charity law, it is the existence of an identifiable, positive, beneficial moral or ethical framework that is promoted by a religion which demonstrates that the religion is capable of impacting on society in a beneficial way.

For many followers or adherents, the most significant benefit they might identify is the meaning that religion gives to their lives and the way in which it contributes to their spiritual well-being. It helps to develop their spirituality (including strengthening their relationship with their supreme being or entity) as well as providing a moral or ethical framework to live by. This moral or ethical framework is considered by many to offer benefits to wider society, as well as individual comfort, solace and a sense of purpose.

As is the case for other charitable purposes, if it is not possible to demonstrate a benefit, then the law cannot take account of it in assessing public benefit. The benefits to the public should be capable of being recognised, identified, defined or described but that does not mean that they also have to be capable of being quantified. Benefits that can be quantified and measured may be easier to identify but we also take non-quantifiable benefits into consideration, provided it is clear what the benefits are. The benefits may or may not be physically experienced. We realise that often in the case of charities whose aims include advancing religion some of the benefits are not tangible and could be potentially difficult to identify. However, this is not to say that a public benefit assessment would only take account of tangible, practical benefits.

It is not possible to produce a definitive list of the different sorts of benefits that a charity advancing religion might be able to demonstrate.

However, in addition to providing a moral or ethical framework, where there is sufficient evidence of benefit to society, the following are examples of the ways in which advancing religion has the potential to be for the public benefit:

- the provision of sacred spaces, churches and worship services;
- the provision of public rituals and ceremonies;
- contributing to the spiritual and moral education of children;
- contributing towards a better society for example by promoting social cohesion and social capital;
- carrying out, as a practical expression of religious beliefs, other activities (such as advancing education or conflict resolution, or relieving poverty), which may also be charitable;
- contributing to followers' or adherents' good mental and physical health; aiding the prevention of ill health, speeding recovery and fostering composure in the face of ill health;
- providing comfort to the bereaved;
- healthcare and social care.

It is not necessary for a charity advancing religion to have to demonstrate all of the types of benefit listed above. It may be sufficient to demonstrate just one benefit.

### **D3. Is there any detriment or harm that, in your view, might arise from carrying out your organisation's aims? Are you aware of any widespread views among others that such detriment or harm might arise?**

**L**

(These questions relate to public benefit principle 1c)

In assessing the public benefit of an organisation's aims, we must also take into account any detriment or harm that may flow from the organisation carrying out its aims. As with assessing benefit, unless it is clear, there must be objective and informed evidence of detriment or harm; they cannot just be claimed.

In *Charities and Public Benefit* we cited the following examples of things that might be evidenced to be detrimental or harmful:

- something that is damaging to the environment;
- something that is dangerous or damaging to mental or physical health;
- something that encourages or promotes violence or hatred towards others; and
- unlawfully restricting a person's freedom.

We also said that no organisation that has aims that are illegal can be a charity.

**The need for evidence:** as with other charities, in the same way that public benefit must be capable of being demonstrated, so must detriment or harm where this is an issue. In assessing the public benefit of charities whose aims include advancing religion we will consider any evidence of significant detrimental or harmful effects of that organisation carrying out its aims in its particular circumstances.

General disagreement with the beliefs, activities or practices of a particular religion does not constitute evidence of the existence of detriment or harm. An organisation's public benefit will be affected where there is evidence of significant detriment or harm from what the organisation proposes to do, or practises, which outweigh the benefits of the organisation carrying out its aims.

In some cases detriment or harm might arise not from general concerns about the nature of the religion, but from the abuse or misuse of religious teachings due to misinterpretation, misapplication or perversion of some of the narratives and/or doctrines and teachings of the religion. In other cases, detriment or harm might arise as a result of the way in which a particular religion is practised. In such cases, for the organisation's aims to be for the public benefit, we would have to be satisfied that either:

- any potential detriment or harm is outweighed by the benefits; or
- there is evidence of the public benefit of promoting the particular practice or doctrine.

**Unlawful practices:** in the majority of cases where a particular practice or activity gives rise to significant detriment or harm, it is likely to be because it is illegal. Where that is the case, it will be clear that such activities are not charitable for the public benefit.

For example, the Racial and Religious Hatred Act 2006 outlaws the use of threatening words or behaviour intended to incite hatred against groups of people because of their religion.

**Lawful practices:** detriment or harm is not, however, simply a matter of whether or not something is illegal. There may be occasions in which there is evidence to show that, whilst not unlawful, significant detriment or harm arises from the way in which a particular organisation is advancing religion. Like all our decisions on public benefit, we will consider the effect of this on the organisation's public benefit based on the available objective and informed evidence and taking into account all the circumstances of the case.

For further examples on what might constitute detriment or harm see [Annex C](#).

# E. Public Benefit - Principle 2: Benefit must be to the public, or a section of the public

This section is supplementary public benefit guidance which forms part of our statutory guidance on public benefit.

## E1. Key questions for charity trustees

*Charities and Public Benefit* sets out the following important points to consider when deciding whether an organisation's aims meet the 'public' principle of the public benefit requirement:

**Principle 2a** The beneficiaries must be appropriate to the aims

**Principle 2b** Where benefit is to a section of the public, the opportunity to benefit must not be unreasonably restricted:

- by geographical or other restrictions; or
- by ability to pay any fees charged

*This text has been withdrawn following the recent decision of the Upper Tribunal about the Commission's guidance on public benefit and fee-charging in relation to educational charities. This part of the guidance no longer forms part of our statutory guidance on public benefit to which charity trustees must have regard when carrying out any powers or duties to which the guidance is relevant. We are now in the process of revising our guidance about what trustees must now have regard to in relation to fee charging charities. In the meantime, details regarding the Upper Tribunal's judgment and interim advice for trustees can be found on our website*

**Principle 2c** People in poverty must not be excluded from the opportunity to benefit

**Principle 2d** Any private benefit must be incidental

Section G8 of *Charities and Public Benefit* suggests a number of questions which charity trustees may find useful as a way of self-assessing the 'public' aspect of their charity's public benefit, and to provide information that will help assess whether or not they are fulfilling their duty to carry out their charity's aims for the public benefit.

The guidance contained in this section is structured around these questions. It sets out some key things for trustees of charities whose aims include advancing religion to think about when considering each of the questions.

## E2. Who do your organisation's aims intend to benefit?

**L** (This question relates to public benefit principle 2a)

There are now many organisations set up to advance religion (and there are many diverse religious traditions present in our society, the advancement of each of which may be charitable under the law). All of them, to be recognised as charitable, have to demonstrate that their aims are for the **public** benefit; it would not be sufficient for any such organisation to show that it is established solely for the benefit of the followers or adherents of the religion.

Considering whom the aims of an organisation advancing religion are primarily intended to benefit is important when assessing whether the organisation benefits the public or a section of the public. With charities whose aims include advancing religion, it is considered that the beneficiaries are normally the followers or adherents, the wider church and the public generally, or, in the case of a charitable religious order, the beneficiaries are the members of the order and the wider public. In some cases, the 'wider public' can benefit by being able to participate in the rites and services of the religion, or by, for example, being the recipient of a charitable act undertaken by a follower or adherent as part of the practice of their religious belief.

In respect of charities whose aims include advancing religion, public benefit might be satisfied where the religious beliefs and practices, reflected in the doctrines and codes of the particular religion, encourage its followers or adherents to conduct themselves in a socially responsible way in the wider community.

The wider public benefits when the values held and expressed by the religion are put into practice in a way that leads to the moral or spiritual welfare or improvement of society.

The benefit to the wider public would be demonstrated by the followers or adherents putting these values into practice and this could also include, for example taking positive actions to help others in society, such as visiting people who are distressed, sick or dying, or providing food and shelter to the homeless.

### E3. If the benefit is to a section of the public, how are the beneficiaries defined or what restrictions are there on who can have the opportunity to benefit?

**L**

(This question relates to public benefit principles 2b and 2c)

Public benefit would not be shown where the practices of the religion are essentially private or limited to a private class of individuals not extending to the public generally.

Where the benefit is not to the public generally, it can be to a section of the public where restricting benefit in that way is reasonable and relevant to the organisation's charitable aims. Restrictions cannot be arbitrary and must be justifiable; public benefit will be affected where the restrictions are unreasonable.

A restriction on who can have the opportunity to benefit may be reasonable:

- where the class of people who can benefit is sufficiently wide or open in nature (given the charitable objects to be carried out and the resources available to the charity) to constitute a sufficient section of the public; or
- because the class of people whom the aims are intended to benefit have a particular charitable need which justifies restricting the benefits to them; or
- where there are restrictions on the class of people who may be followers or adherents of the religion but the wider public benefits from the positive behaviours of the followers or adherents promoted by the doctrines of that religion.

For example, it is acceptable for a charity advancing Judaism to restrict its activities to people within the Jewish community because of the benefits to the wider public from the practice of those religious beliefs by members of that community. Similarly, it is accepted that within the Jewish religion there are certain restrictions, such as the study of the Torah or Jewish texts which, by nature, are targeted at men, not women. However, women who wish to study these may do so separately.

Charities should provide as much benefit as possible given their particular circumstances.

For example, where one of the objects of a charity established to advance religion is to offer aid, it would be natural that the availability of resources might reasonably dictate any restrictions on who can benefit from that aid.

The actual number of people who benefit from a charity advancing religion may be quite small provided that the opportunity to benefit is available to a sufficient section of the public.

For example, a chapel situated in a rural, sparsely populated area might only have a single figure congregation because of its isolated position. Provided that the services at the chapel are open to all who wish to attend, this small number would not affect public benefit.

#### • Can a charity that provides a place of worship restrict access?

It is reasonable for a charity which advances religion that provides a place of worship to restrict access to the followers or adherents of that religion, provided that the definition of who can be a follower or adherent is sufficiently open.

It is also reasonable when conducting personal ceremonies, such as naming, marriage and funerals, for access to the place of worship **at those times** to be restricted to people who are participating in those ceremonies.

We do not expect a charitable place of worship to be open at all times. Clearly it is reasonable for a place of worship to be locked when not in use and often concerns about security and/or racial or religious abuse can mean that a place of worship cannot be left unattended so that members of the public can simply enter the building when they wish for quiet contemplation. However, to ensure that the place of worship is sufficiently accessible for the public to benefit, we would expect adequate provision to be made to inform people when they can enter the premises – a prominently displayed notice outside the property for example.

There may be circumstances in which the access to the place of worship is so restricted, beyond what is reasonable, that the private benefit might outweigh any public benefit.

For example, a place of worship that only ever conducted private ceremonies and no public worship would not meet the public benefit requirement.

- **Can a charity advancing religion require its followers or adherents to conform to certain behavioural norms?**

Charities whose aims include advancing religion can require their followers or adherents to comply with the religiously-derived norms of behaviour promoted by that religion. However, where doing so involves breaking the law, or where there is evidence of detriment or harm being caused, this will affect public benefit (see section D3 above).

Organisations whose aims include advancing religion are encouraged to be open and transparent about views presented by the organisation that, in a secular context, could be viewed as discriminatory. This is not to say that these views cannot be held, but that charities whose aims include advancing religion should be open about their views so that members of the public are able to make an informed choice about whether they attend or support organisations holding those views.

#### **E4. Does anyone receive any private benefit from your organisation, other than as a beneficiary? If so, what benefits do they receive? Are those benefits incidental?**



(This question relates to public benefit principle 2d)

In this guidance, a private benefit is a benefit that a person or organisation receives other than as a beneficiary of a charity.

Private benefits can range from one-off payments for services, such as painting a charity's premises, to a contractual arrangement for ongoing services to achieve or support a charity's aim. To be charitable, such arrangements must be incidental to carrying out the charity's aims or happen as a necessary consequence of carrying out the aims. For further guidance on this see section F12 of *Charities and Public Benefit*.

Any private benefits will usually arise either as a necessary but incidental way of the organisation furthering its aim of advancing religion, or as a consequence of doing so. In both cases, the trustees must be satisfied, on reasonable grounds, that the activity which results in a private benefit is an effective way of furthering their charity's aim of advancing religion.

**Benefits to religious leaders:** any benefits given to religious leaders must be reasonable and the trustees must be satisfied that they are necessary for the proper administration of the charity.

For example, the benefits of providing a vicarage to a Church of England priest or minister are clearly necessary and incidental.

We would examine any evidence of private benefit to religious leaders that is more than legitimately incidental. If the purpose of an organisation is to enhance the wealth of the leader or leaders of a religion, this would not be charitable. These sorts of benefits may or may not be incidental depending upon the level of benefit that arises.

Examples of the types of private benefits to religious leaders which might arise include:

- the payment of subsistence, accommodation and other living expenses;
- the payment of remuneration for their services;
- the enhancement of the leader's personal reputation or the reputation of their ministry;
- increased income from the sale of merchandise, such as videos, books and tapes in which the leader has an interest; or
- an increase in the value of their associated intellectual property rights or the payment of other personal gifts to the leader.

**Closed religious orders:** a charity's aims must be for the public benefit, not just for private benefit. So, simply having a religious belief, or being a religious person, is not advancing religion for the public benefit. That is why closed religious orders that do not give the wider community the opportunity to benefit in a demonstrable way have been held by the Courts not to be charitable.

**Benefits to members of a religious community:** some charitable religious orders continue to look after ageing members of the order, by, for example, providing accommodation and a pension. Usually, those members will have given up possessions when they joined the organisation. They have been engaged in various charitable works on the basis that their reasonable and modest personal needs would be met. The meeting of those continuing needs after retirement is no more than a legitimate working out of the understanding on which the charitable work was undertaken in the first place. We would regard the private benefits to those retired members of the order to be legitimately incidental. It may also be the case that looking after those in need could be undertaken as part of the organisation's charitable religious aim.

However, in other circumstances, we may take the view that benefits to members of a religious community are more than incidental.

For example, an organisation set up to advance religion operates as a religious community whose small number of members and the trustees derive significant personal benefit from the lavish property they reside in, financed by their trading activities, which are extensively interwoven with the operation of a commercial company. The benefits here would be more than incidental since the amount of charitable activity is minimal and any public benefit is outweighed by the extensive private benefit derived by the members of the religious community.

#### **Non-incidental private benefit:**

The following are examples of the types of non-incidental private benefit that might arise in charities whose aims include advancing religion:

- paying excessive expenses of the religious leaders and sometimes their families including:
  - very generous salary;
  - accommodation (beyond that commensurate with need);
  - travel (including mode of travel eg private jet);
  - elevation of the status of the founder of a religion (and possibly of their family too) including self promotion and power;
- promotion of the teachings of a religious leader who is still alive including book tours, seminars, receipts of royalties from publications;
- religious communities, for example where, in addition to free accommodation, expenses of an over-generous scale are given and sometimes paid employment is also offered;
- the upkeep of private chapels to which the general public have no right of access;
- the saying of private masses or the upkeep of a particular grave.

- **Can charities whose aims include advancing religion charge for the services and facilities they provide?**

Many charities advancing religion ask their followers to make regular payments to the organisation (often through the Gift Aid scheme), sometimes based proportionately on their income.

This is a well-established practice and can be voluntary or mandatory. If the level of payment is such that people in poverty are unable to access the services and facilities offered by the organisation, its public benefit may be called into question. If financial contribution is used in practice (if not officially) as a way of restricting who can join or benefit, for example if there is any pressure, covert or otherwise, put on the follower or adherent to pay regardless of their ability to do so, this could call into question the public benefit of the organisation's aims.

Examples of the types of services that charities whose aims include advancing religion might reasonably charge for include:

- ceremonies, such as naming, marriage, or funerals;
- education and teaching;
- saying prayers for the deceased;
- counselling, including marriage counselling;
- retreat;
- exorcisms;
- pilgrimages, Hajj;
- use of property;
- religious artefacts or jewellery;
- religious stationery, eg Christmas or Diwali cards;
- media:
  - books;
  - magazines;
  - DVDs and CDs (eg of choir performances).

**People in poverty:** are a charitable beneficiary class and therefore benefits can be restricted to them. However, they cannot be excluded from benefiting simply because they cannot afford to pay any fees charged. There must be some other material way, related to the charity's aims, in which they can have the opportunity to benefit. This is not to say that people in poverty actually have to benefit; it is the opportunity to benefit that is the issue, not the actual enjoyment of benefit.

Similarly, where faith healing is a part of the religion, if a charge is made for the healing, which would exclude people in poverty from benefiting from the healing, some other way of enabling them to benefit should be provided.

Not all charities whose aims include advancing religion charge for their services, and some leave the choice of payment with the members of the public. Where charges are made, often concessionary rates may apply.

**Study courses:** if the tenets of the religion are only available as a course of study and that course is only available on payment, we will need to consider to what extent the spiritual development of the follower or adherent is dependent upon their ability to pay. We will also need to consider to what extent those costs might exclude people in poverty. ~~See also our separate guidance *Public Benefit and Fee-charging*.~~

*This text has been withdrawn following the recent decision of the Upper Tribunal about the Commission's guidance on public benefit and fee-charging in relation to educational charities. This part of the guidance no longer forms part of our statutory guidance on public benefit to which charity trustees must have regard when carrying out any powers or duties to which the guidance is relevant. We are now in the process of revising our guidance about what trustees must now have regard to in relation to fee-charging charities. In the meantime, details regarding the Upper Tribunal's judgment and interim advice for trustees can be found on our website*

## F. Reporting on public benefit

This section is supplementary public benefit guidance which forms part of our statutory guidance on public benefit.

### F1. Trustees' duties to report on public benefit

**L** Charity trustees have a new duty to report in their Trustees' Annual Report on their charity's public benefit. Most charities already explain their activities in their Trustees' Annual Report. This information must now be set in the context of the charity's aims to show how in practice the aims have been carried out for the public benefit.

The level of detail trustees must provide will depend on whether their charity is above or below the audit threshold.

**For smaller charities**, below the audit threshold, trustees must now include a brief summary in their Trustees' Annual Report of the main activities undertaken explaining how these furthered the charity's aims for the public benefit. The summary should also confirm that the trustees have had regard to our public benefit guidance, where relevant. Trustees can, of course, provide fuller public benefit statements if they wish.

**For larger charities**, above the audit threshold, trustees must provide a fuller explanation in their Trustees' Annual Report of the significant activities

undertaken in order to carry out the charity's aims for the public benefit, as well as their aims and strategies. They must explain the charity's achievements, measured by reference to the charity's aims and to the objectives set by the trustees. It is up to the charity's trustees to decide how much detail they want to provide to clearly illustrate what their charity has done in the reporting year to meet the requirement; we will not be prescriptive about the number of words or pages needed. But a charity that said nothing on public benefit in its Trustees' Annual Report, or produced only the briefest statement with no detail, would be in breach of the public benefit reporting requirement.

**Examples and statistics:** the trustees can describe in their report what were the main benefits to their beneficiaries by using examples and, if appropriate, statistical information explaining how the religion was advanced for the public benefit.

**Grant-making to other organisations:** charity trustees are required only to report how their charity has met the public benefit requirement. Trustees of grant-making charities are not required to establish whether charities they make grants to comply with the public benefit requirement. This would be for the trustees of the charity receiving the grant to address.

## G. Assessing public benefit

### G1. What is our role with regard to charities whose aims include advancing religion?

We are the registrar and regulator of charities, including charities whose aims include advancing religion. We are not the regulator of religion itself and cannot make subjective or value judgements as to the truth or worth of religion or religious beliefs.

Our role as registrar and regulator is to ensure that registered charities have charitable aims that are for the public benefit. The public benefit requirement is not intended to outlaw or prohibit any particular religious beliefs or practices; rather it is to determine whether or not a particular organisation with aims to advance a religion qualifies as a charity.

### G2. How will we assess the public benefit of charities whose aims include advancing religion?

We will assess whether the aims of all organisations applying to register as charities are for the public benefit and whether charities that are already registered meet the public benefit requirement. We will do this by carrying out research studies on the extent to which different types of charity are meeting the public benefit requirement and by working with representative professional and umbrella bodies and with users of those charities.

**Detailed assessments of individual organisations:** in some cases we might need to carry out detailed assessments of individual charities. In those cases, we will ask each individual organisation to demonstrate that its aims, and what it is doing to carry out those aims, will be for the public benefit. Where appropriate, we will work with umbrella and national bodies to help assist their members in this.

**Where changes are needed:** it may be that in some cases, changes will have to be made to an organisation to enable it to meet the public benefit requirement. Where that needs to happen, we will advise the trustees on why we consider it does not meet the public benefit requirement, and give clear reasons and advice on what happens next where it is not possible for the organisation to meet the requirement.

No charity will be expected to make changes overnight and we will take reasonable account of how much time and resources might be needed by a charity that needs to make changes in order to meet the requirement.

**Breach of trust:** a breach of trust can arise where trustees act outside their duties or powers, including using their charity's property and other resources for something that falls outside the charity's aims. If we think that trustees might, inadvertently or otherwise, be acting in breach of trust we will ask the trustees to change the way in which they are carrying out their charity's aims in order to meet the public benefit requirement. Therefore, in this guidance, where we indicate that trustees might be asked, in certain circumstances, to show a link between the activities and their charity's aims, or to explain why they are carrying out their charity's aims in a particular way, this might be required either to show that they are carrying out their charity's aims for the public benefit or to show that they are not acting in breach of trust.

**Disagreeing with our decisions:** where we make a public benefit decision which affects whether a charity remains as a charity, or on whether the way it operates is for the public benefit, the charity, or anyone affected by our decision, who disagrees with the regulatory action that we take, may ask the Commission to review the decision under our internal review procedures. Guidance on those procedures is on our website. Alternatively, or after a fresh decision has been made in a decision review, a decision can be challenged in the Tribunal if they are a person entitled to appeal and the decision falls within the schedule of decisions that can be challenged in that way or, if not, potentially by way of judicial review to the Administrative Court. Details of how to contact the Tribunal can be found on our website.

However, by working constructively with charity trustees and undertaking extensive public consultation on our public benefit guidance we anticipate that such circumstances would be rare.

For further detail see section H of *Charities and Public Benefit*.

### G3. What will we take into account when assessing public benefit?

**Presumption of public benefit:** there is no longer a presumption of public benefit for charities whose aims include advancing religion. We are under a statutory duty to consider the specific aims of an organisation and to assess whether the way in which it carries out those aims meets the public benefit requirement.

**Assessing the public benefit of an organisation advancing religion:** where we (or the Tribunal, Upper Tribunal or the Courts) have recognised that a particular religion meets the charity law definition of a religion, and has beliefs, tenets and practices that are capable of meeting the public benefit requirement, it will not be necessary for each new organisation that advances that religion to show that it meets that definition.

However, each individual organisation will itself still have to show that its own aims, and what it is doing to carry out those aims, will be for the public benefit. Where appropriate we will work with umbrella and national (religious) bodies to help them assist their members in this.

For example, although the beliefs, tenets and practices of Christianity meet the charity law definition of religion and are capable of being advanced for the public benefit, a closed Christian order, that does not interact with the wider community, would not meet the public benefit requirement. This is because a fundamental part of the public benefit requirement is that the benefits that are identified must be sufficiently available or accessible to the public. So where the practices of the organisation advancing religion are essentially private or limited to a private group of individuals, this requirement would not be met.

**Benefits must be related to the aims:** only those benefits that arise as a result of a charity carrying out its charitable aims are taken into account when assessing public benefit. It is recognised that charities whose aims include advancing religion can have very broad aims and that there might be an overlap with other charitable aims such as the advancement of education or the prevention or relief of poverty. Where charities whose aims include advancing religion carry out other such aims as a genuine expression of that religion there is no need to include these activities as separate aims.

However, there might be instances where benefits arise from what an organisation advancing religion does which are not related to its aims.

For example, a church might keep historical records on births, deaths and marriages within the parish covering several hundred years which it makes available for public inspection and/or study.

Another example is the Mormons' Family History Centres which help members identify their ancestors and provide temple ordinances for them. The Church of Jesus Christ of Latter-Day Saints believes that families can be united as husbands and wives, where marriages can continue throughout this life and after death, and as parents and children where children can be 'sealed' to their parents so that the relationship continues after death. The Church members search for information regarding their ancestors so that they may perform the marriages and 'sealings' on their behalf.

Where a charity advancing religion has these records, and makes them available for public inspection, the trustees might wish to adopt a secondary object, covering the maintenance and upkeep of church records for the public benefit to ensure that the benefit of this is also included in a public benefit assessment of the charity's aims.

**Current social and economic circumstances:** section D6 of Charities and Public Benefit confirms that our approach to decisions about what is charitable, and what is or is not for the public benefit, will continue to be informed by what is relevant and appropriate for current social and economic circumstances. This has long been part of the recognised approach of the Charity Commission and the Courts. But neither we, the Tribunal, Upper Tribunal nor the Courts have the remit (or the desire) to change or try to modernise traditional long-held religious beliefs. This is stated explicitly in Charities and Public Benefit. It is not relevant when assessing public benefit whether some might regard certain long-held religious beliefs as old-fashioned or out of step with the views of many others in society. What matters is that an organisation's aims, and the way in which it carries out those aims are, demonstrably, for the public benefit.

**Public opinion:** as *Charities and Public Benefit* makes clear, charitable status is not decided on the basis of public opinion. However, we would have regard to public opinion where there are objective and informed public concerns about, or evidence that, the beliefs or practices of an organisation advancing religion causes detriment or harm.

We recognise that in many areas, including religion, opinions can be divided. The fact that some members of society do not agree with particular religious beliefs, or do not support certain religious practices, does not in itself mean that the aims of an organisation advancing the religion concerned will not be for the public benefit.

Un evidenced claims made with the intention of causing an organisation trouble because of a disagreement with the organisation's views or stance will not be taken into consideration. All claims of detriment or harm would have to be fully substantiated.

**Conflicting moral views:** there will also be occasions where the moral views of organisations will conflict but it is possible for each to be charitable for the public benefit. The public benefit in each case may be demonstrated for different reasons.

# Annex A: Characteristics of a religion

When considering whether or not a belief system constitutes a religion for the purposes of charity law, the Courts have identified certain characteristics which describe a religious belief. These can be summarised as:

- the belief system involves belief in a god (or gods) or goddess (or goddesses), or supreme being, or divine or transcendental being or entity or spiritual principle, which is the object or focus of the religion (referred to in this guidance as 'supreme being or entity');
- the belief system involves a relationship between the believer and the supreme being or entity by showing worship of, reverence for or veneration of the supreme being or entity;
- the belief system has a degree of cogency, cohesion, seriousness and importance;
- the belief system promotes an identifiable positive, beneficial, moral or ethical framework.

**Religions that do not involve belief in a god:** the Charities Act states that 'religion' includes '*a religion which does not involve a belief in a god*'. This is because there are some religions that do involve belief in a divine or transcendental being or entity or spiritual principle but do not necessarily revere a supreme being or entity as a 'god'. These 'beings, entities or principles' are examples of a spiritual state to which the followers or adherents of the religion aspire.

For example, in Buddhism the terms 'supreme being or entity' are inappropriate. Although there are deities in Buddhism, earlier attempts to deify the Buddha did not take root. Buddhism is a 'realised' not a 'revealed' religion and Buddhists believe they should follow a path laid out by the Buddha which can ultimately lead to attaining the profound spiritual awakening and peace of heart that he experienced.

**Worship:** where followers or adherents take part in acts or practices expressing their belief in the supreme being or entity by showing reverence for, or

veneration of, the supreme being or entity is often called 'worship', but different religions use other concepts. Whatever terminology is used, what is important is that the relationship has some or all of the qualities of deep respect, homage, adoration, devotion, obeisance, submission, prayer and meditation.

This relationship with the supreme being or entity is usually spiritual in nature, characterised by feelings of connectedness or unity with a force or power that is greater than the self, which is apart from the self but which may also exist within. It is this feeling of connectedness or unity that followers or adherents regard as sacred and revered. It may also instil in followers or adherents feelings of self-worth which might motivate or be expressed through the quality of life they lead and in meaningful and purposeful activity, especially that which involves helping others and inspiring others to do likewise.

For example, in Jainism, although there is a belief in a supreme being or entity, the followers or adherents do not connect with the supreme being or entity. Rather, the supreme being or entity serves as an inspiration to followers or adherents to live better lives.

**Cogency, coherence, seriousness and importance:** for the purposes of charity law, a religion must be a sincere belief system of substance or significance, capable of benefiting society, having a certain level of cogency, coherence, seriousness and importance; as opposed to a self-promoting organisation set up to promote one or two persons, or a trivial system set up for, perhaps, frivolous reasons.

This is consistent with the definition of 'belief' in European Convention on Human Rights case law which has defined 'beliefs' as "*more than just mere opinions or deeply held feelings*" which involve "*a holding of spiritual or philosophical convictions which have an identifiable formal content*".

# Annex B: Examples of ways in which charities can advance religion

There are a variety of ways in which the Courts have accepted that charities can advance religion by seeking new followers or adherents and/or by encouraging and facilitating the practice of the religion by existing followers or adherents, or by advancing the religion generally.

The following examples illustrate the many different ways in which charities can advance religion:

- **Seeking new followers or adherents**

Proselytising (seeking to convert someone to a faith or religion) is used by many charities advancing religion as an established and accepted means of attracting new followers or adherents. In some religions proselytising is seen as an essential part of the outworking of the religion.

For example, Christians regard evangelising as a central part of their religion.

In the majority of cases, proselytising is carried out sensitively and without coercion and does not present any public benefit difficulties.

However, there are circumstances in which the way in which proselytising is carried out, or the effects of proselytising, can affect public benefit, such as where it involves:

- exerting improper pressure on people in distress or need; or
- activities that entail the use of violence or brainwashing; or
- activities offering material or social advantages with a view to gaining new members of the religion.

- **Encouraging and facilitating the practice of the religion by existing followers or adherents**

Examples of advancing religion by encouraging and facilitating religious practice by existing followers or adherents include:

- **Places of worship, including:**

- the provision and maintenance of a building used for religious practice (including churches, gurdwaras, mosques, synagogues, and temples; also including meeting houses, adjoining halls and meeting rooms used for related activities, eg religious instruction for children);
- the conducting of religious ceremonies, eg naming ceremonies, or the celebration of marriages or funerals;
- the maintenance of public churchyards and other public religious burial places;
- the saying of masses open to the public;
- the saying of special prayers for a year after the death of a person;
- the provision and maintenance of religious or devotional artefacts and items used in religious services, rituals or practices;
- the provision and maintenance of religious stained glass windows and other religious works of art within places of worship;
- 'passive advancement', meaning leaving religious buildings open for people to enter and benefit from personal spiritual contemplation.

- **Raising awareness and understanding of religious beliefs and practices, including:**

- advancing a particular interpretation of a religious doctrine, or advancing particular religious tenets, provided the charity is not doing so in order to achieve a political purpose;
  - advancing belief in a particular miracle or miracles – some religious beliefs include belief in ‘miracles’. [A ‘miracle’ is generally regarded as an event that appears inexplicable by the laws of nature and so is held to be supernatural in origin or an ‘act of God’. There is a distinction, though, between advancing a religion that includes a belief in miracles amongst its tenets, beliefs and practices, and promoting belief in a particular miracle, not in that context. Advancing belief in a particular miracle or miracles, not acknowledged by a recognised religion, or not capable of promoting the moral or spiritual welfare of the community, would not, of itself, be charitable];
  - producing and promoting religious books, tracts, films and other information for the public, including providing religious resource centres and libraries;
  - promoting the study of religious teachings and practices and scriptures;
  - promoting religious narratives and/or doctrines through producing and performing musical and theatrical liturgy;
  - providing religious instruction and supervision;
  - providing or supporting schools and educational establishments, including theological training colleges, which provide education in accordance with the principles and practices of the religion;
  - support of religious office holders for acting as such, including the provision of stipends and other living allowances, pensions and retirement accommodation;
  - promoting prayer, praise and study.
- **Religious devotional acts, including:**
  - visiting the sick;
  - sitting with a deceased person’s body so that it is not left unattended;
  - administering the sacraments to the sick and dying.

- **Missionary and outreach work, including:**

- the provision of prison, hospital, university and industrial chaplaincy;
  - prison and hospital visiting;
  - the encouragement and support of pastoral work;
  - cultural and community activities provided either in the place of worship or in the buildings attached, such as the provision of free community kitchens in gurdwaras;
  - work for reconciliation, truth telling and peace;
  - developing understanding regarding peace and human rights.
- **Religious communication, including:**
  - sermons and religious seminars, talks, meetings and conferences;
  - charitable religious television and radio broadcasts;
  - the provision of religious material via the internet;
  - street and door-to-door communications.
- **Retreat and pilgrimage, including:**
  - provision of property for retreat;
  - organising the holding of long or short-stay retreat; where the people who attend return to society to practise their beliefs;
  - organising open pilgrimages where the pilgrimage is part of the public worship of a recognised religious group and where the purpose of the pilgrimage is more than personal devotion.
- **Advancing religion generally including:**
  - charities set up in general terms for religious purposes;
  - charities set up to support religious societies and institutions;
  - charities set up to support more than one religion or denomination, such as Protestant Christianity;
  - ecumenical and inter-faith charities.

Whatever way trustees choose to advance religion, it must be clear that the activity is being carried out as an expression of the advancement of that religion.

We recognise that, for many, the separation of religious and secular work is not easy, or even possible, as secular and/or social work in these similar fields is in fact an outworking of the religion.

However, there is a difference between a religious person undertaking work as part of their religion and a person who has religious beliefs undertaking work in furtherance of a secular purpose. It is important in public benefit terms to be able to distinguish why the activity is being carried out since activities are what organisations do in order to carry out their aims and therefore the activities must be related to those aims.

Charities whose aims include advancing religion do not have to undertake secular activities in addition to their religious activities in order to meet the public benefit requirement.

For example, the sole aim of a particular charity advancing religion may be to provide a place of worship for all who wish to attend. Provided access is not unduly restricted, carrying out this one activity is capable of meeting the public benefit requirement.

# Annex C: Examples of what might constitute detriment or harm

In our experience as the regulator of charities, we come across situations where the activities of a charity advancing religion could potentially lead to detriment or harm or attract accusations of detriment or harm.

## • Charities carrying out activities internationally

No organisation that has aims that are illegal, or that intentionally deceives or misrepresents its aims and so is a sham, can be a charity. As recognised charities in England and Wales are subject to the jurisdiction of the High Court, this means that their aims cannot be illegal under the law of England and Wales.

The law of England and Wales is not universal and the laws of other countries will differ. This means some charities that are registered in England and Wales might have aims, or might carry out their aims in a way, that may be illegal in another country.

For example, charities whose aims include advancing religion and who wish to proselytise overseas should be aware that proselytising, whilst legal in England and Wales, may be illegal in some countries.

The general position is that if it is charitable to carry out something in England and Wales, it will also be charitable if carried out in other countries by a charity registered in England in Wales. Similarly, if something is considered to be of detriment or harm if carried out by a charity in England and Wales, it will also be considered to be of detriment or harm if carried out in other countries by a charity registered in England and Wales.

For example, detriment or harm might occur where the carrying out of the charity's aims in a country where it is illegal to do so might:

- expose the charity's staff and volunteers to harm, including risks to their personal safety or liberty – for example where staff or volunteers are exposed to risks of arrest and imprisonment (even where the staff and volunteers choose to work in areas of risk whilst knowing of the risks involved); or
- stir up conflict within the country they are working in, possibly endangering the lives of their proposed beneficiaries – for example, disseminating religious literature in a country that is experiencing religious conflicts where that would further inflame the conflict.

In our separate guidance, *Charities Working Internationally*, we say: *"In cases where there is a risk that an activity contemplated by the trustees in a foreign country will be subject to local legal challenge, the trustees should assess the extent of the risk that they would be running and the extent to which that risk could be removed or reduced. In these situations, the trustees should consider extremely carefully what course of action will be in the best interests of the charity using both their knowledge of local conditions and the needs of their beneficiaries. They would need to take appropriate legal and other advice. Finally they should balance the benefits of carrying out that activity against the dangers and disadvantages, including the potential human, financial and reputational cost, of doing so."*

## • Something that is dangerous or damaging to mental or physical health

A view that a charity's activity is dangerous or damaging to mental or physical health, which might affect public benefit, would need to be supported by objective and informed independent medical opinion.

An example of this type of detriment or harm is the refusal to allow medical treatment, or the taking of medicines, on religious grounds. The question of detriment or harm in this case hinges on a question of personal choice.

The withholding, on religious grounds, of medical treatment without someone's consent, or for children or other vulnerable people, is a contentious area.

Factors we would take into consideration include:

- whether consent is withheld because to administer such treatment would be contrary to a fundamental aspect of the religion;
- whether the withholding of consent is against the law, or is managed by the law in another way, for instance by the state taking over the power to consent.

Before reaching any conclusions about whether this affects the public benefit of an organisation's aims, we would need to consider whether any possible damage to mental or physical health outweighs the general benefits of people having the freedom to follow their religion.

Whilst exercising personal choice regarding medical treatment might not affect public benefit, public benefit is more likely to be an issue where an organisation advancing religion seeks to actively discourage members of the public in general from seeking medical treatment.

Public benefit might also be called into question where there is evidence that the way in which a particular organisation advances a religion can be potentially damaging to a person's mental health, for example because of the techniques that it uses.

However, we would not regard something as dangerous or damaging where the choice of whether to take part is made by a fully consenting adult, and the practice of not taking medicine or undergoing treatment can be justified through the teachings of the religion.

For example, in the case of Christian Science (a non-medical religious healing system that relies on spiritual means through prayer to address illness, injuries and other conditions) those who practise it remain free at all times to choose medical treatment or any alternative treatments in preference to Christian Science healing.

- **Something that encourages or promotes intentional threats of violence or hatred towards others**

The law will not be drawn into the truth or otherwise of religious narratives and/or doctrines. Charity law recognises that some religions may speak against practices or behaviours which others in society believe are acceptable or positive.

However, public benefit will be affected in the case of any organisation advancing religion which promotes hatred or violence or criminal acts towards others.

For example, if proselytising were carried out in a way which resulted in a threat to public order or other harmful outcomes, we would need to assess the detriment or harm and whether the positive aspects of the religion could outweigh the negative or detrimental.

Another area of difficulty is where people hold certain adverse views about other people of a different ethnic background or religion from their own. It is one thing to hold these views but it is quite another actively to promote those views where they could cause harm. It is a question of balancing the right to hold views and the responsibility to respect everyone in society. We would need to consider what effect promoting those views would have on the community and what would be the public benefit in promoting those views? Would promoting those views cause harm to certain persons in the community, for example?

- **Unlawfully restricting a person's freedom**

Some organisations advancing religion encourage their followers or adherents to live together in a religious community. Provided that members of the community are free to exercise personal choice and are at liberty to leave the community without intimidation or threat of repercussions, public benefit will not be an issue on that ground.

The freedom to exercise personal choice is not just an issue that applies to religious communities. To be for the public benefit, charities whose aims include advancing religion must not unlawfully restrict the freedom of their followers or adherents to exercise personal choice by changing their beliefs or leaving a particular religion, or branch of religion.

This publication can also be accessed at the Charity Commission's website: [www.charitycommission.gov.uk](http://www.charitycommission.gov.uk)

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Supplied by Linney Group.  
xxxxxx xx/2008

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