

Public Benefit and the Advancement of Moral or Ethical Belief Systems: Summary of consultation responses

About this summary

This document summarises the feedback received by the Charity Commission in response to its consultation on draft supplementary guidance on *Public Benefit and the Advancement of Moral or Ethical Belief Systems*.

Background information

The Charity Commission is established by law as the independent regulator and registrar of charities in England and Wales.

To be recognised in law as a charity, an organisation must have charitable purposes which are for the public benefit. This is known as the 'public benefit requirement'. Although all charities already had to meet this requirement, the Charities Act 2006 highlighted it by explicitly including public benefit in the definition of a charitable purpose. It retained the current law on public benefit but created a level playing field by requiring all charities to demonstrate, explicitly, that their purposes are for the public benefit; previously the law presumed this to be the case for charities which advance education or religion or relieve poverty.

The Act does not contain any new definition of public benefit or suggest how charities should meet that requirement. It does give the Charity Commission the new objective of 'promoting awareness and understanding of the operation of the public benefit requirement', and requires the Commission to issue, and consult on, guidance on public benefit, to which charity trustees are required to have regard when running their charity.

In January 2008, following a full public consultation, the Commission published its general guidance on public benefit, *Charities and Public Benefit*. Following publication of that guidance, the Commission launched a series of consultations on draft supplementary guidance on the public benefit of those charities most directly affected by the changes in the Act – that is charities established for the prevention or relief of poverty, the advancement of education, the advancement of religion and also fee-charging charities, which were highlighted during debates on the Charities Bill.

During those debates Parliament decided to not include reference to 'non-religious' beliefs alongside the advancement of religion in the list of descriptions of purposes on the face of the Bill. Parliament nevertheless sought assurances from the Charity Commission that, in considering their charitable status, it would give equal treatment to organisations advancing 'non-religious' beliefs as it would to those advancing religious beliefs, particularly in relation to applying the public benefit provisions in the Act, including producing relevant guidance.

The consultation process

Following the closure of our consultation on draft supplementary guidance on the public benefit of charities advancing religion, on 4 September 2008 we published draft supplementary guidance on *Public Benefit and the Advancement of Moral or Ethical Belief Systems*. The four-month consultation period ended on 5 January 2009.

We received 8 responses in total. All the responses we received have been recorded, analysed and taken into consideration. This document summarises the comments made to us.

Anyone who wishes to see a full list of responses, or copies of individual responses, should contact Charity Commission Direct on 0845 300 0218.

The comments were wide-ranging but the majority made it clear that, as drafted, the proposed guidance would not have been relevant to all charities concerned with advancing moral or ethical beliefs.

As a result of this feedback we have decided not to proceed with the guidance as originally drafted. Instead, we will prepare guidance on the scope and meaning of the broad area of charitable activity that might be included under the heading of 'advancing the moral or ethical welfare, including spiritual welfare, of the community'. This new guidance will include charitable purposes that might be advanced by organisations advancing moral or ethical beliefs and will address any relevant public benefit issues.

General comments about the draft supplementary guidance

- Not all responders answered the questions asked in the draft guidance, or answered them directly. One responder simply endorsed the views expressed by another. One responder's comments were centred specifically on how the draft guidance would apply to their organisation. Another response was principally concerned with commenting upon a specific activity, and the way it was undertaken by a particular organisation.
- There was no objection to 'moral or ethical belief system' as an appropriate term to use although various questions were raised regarding the necessity of actually defining a moral or ethical belief system. Two responders noted that a moral or ethical belief system does not define how a person *lives* their life but defines how a person *ought* to live it.
- It was generally agreed that treatment should be equal for organisations advancing religious and 'non-religious' beliefs.
- Responders noted that the words "*spiritual*", "*heightened awareness*", "*devotional*", "*tracts*" and "*pilgrimage*" used in the draft guidance may have religious or quasi-religious connotations, and that they needed to be considered within that context.
- One responder made the observation that "*most organisations which promote non-religious beliefs do not actually promote a whole belief system which may be considered akin to a religion. When one looks at some secular and humanist societies they often promote an anti-religion stance, and hold that people should act decently towards their fellows in a general way. They do not even promulgate any particular kind of moral code*".
- One responder raised a concern about the guidance on proselytism, and asked whether a religion would be granted charitable status if it was committed to the elimination of another belief.

A summary of the responses relating to the specific questions raised in the draft consultation document

1. Do you have any comments on our description of a charitable moral or ethical belief system?

The responses raised various questions about the necessity of actually 'defining' a moral or ethical belief system. One responder suggested that the wording of the draft guidance implied that 'non-religious' belief systems are deficient by comparison to religious belief systems, and suggested that some might infer from it that the Charity Commission saw 'non-religious' belief systems *'through the lens'* of religion. One responder noted that the description of a moral or ethical belief system was *'very wide'*.

2. Do you think that 'moral or ethical belief system' is the appropriate term to use? If not, can you suggest an alternative?

Most responders endorsed, or did not state any objection to, the use of 'moral or ethical belief system' as an appropriate term to use to describe 'non-religious' beliefs. One responder commented that as most religions would meet our definition of a moral or ethical belief, it may "...*cause confusion and possible offence to use this term to refer only to non-religious belief systems*". One responder proposed alternative terms, including 'rationalism', noting that not all organisations concerned with advancing moral or ethical beliefs actually promote a 'belief system'. This observation about the absence of a specific belief system or 'code' was made by another responder although they did not state any objection to the term 'moral or ethical belief system'.

3. Do you agree with our view that a moral or ethical belief system defines how a person lives their life?

Two responders noted that a moral or ethical belief system does not define how a person *lives* their life but rather how a person *ought to live* their life. One responder suggested that there was not an objective standard of what is considered to be *moral* under charity law and quoted as examples decisions on issues such as homosexuality, abortion and animal experimentation. (See also the 1st paragraph of both question 5 and question 8 below.)

4. Is the term 'followers or adherents or members' the appropriate way to refer to someone who holds or subscribes to a particular belief system? If not, can you suggest an alternative?

Responders generally considered the terms 'followers' or 'adherents' to be appropriate, although one responder suggested that somebody could follow a belief system without specific 'adherence' to it. Another responder noted that the terms 'member' or 'subscriber' were preferable as it would remove any quasi-religious connotations.

5. Do you have any comments on the list of characteristics for a charitable moral or ethical belief system? Are there any other characteristics that you think should be included?

One responder questioned who would judge whether an organisation was beneficial and by what criteria. This related to a response to question 3 (see above) which referred to the absence of a definitive definition or standard of what is considered to be 'moral'.

Another responder commented that the words '*spiritual*' and '*heightened awareness*' in section 3 may have religious or quasi-religious connotations. Both responders also felt that the use of the words '*capable of being accepted ... **by the public at large***' suggested that the Commission had 'raised the bar' for organisations advancing moral or ethical beliefs for this element of charitable benefit to be recognised (as compared with those advancing religious beliefs).

In commenting upon the other charitable purposes that might be advanced by organisations advancing moral or ethical beliefs, one responder suggested that advancing education in relation to moral or ethical beliefs is not necessarily concerned with promoting values (as suggested in the draft guidance) but rather may be concerned with imparting facts and developing abilities.

6. Are you able to provide examples of moral or ethical belief systems which do seek followers, adherents or members? If so, please provide details.

Organisations which were suggested as being examples of moral or ethical belief systems which seek followers, adherents or members included those concerned with advancing Zen/Chad Buddhism and the Society for Humanist Judaism.

One responder noted that their organisation (which promotes a moral or ethical belief) did not actively seek to 'recruit' members, but instead makes information about its activities available and promotes its position.

7. Do you know of any examples of moral or ethical belief systems into which followers, adherents or members must be born and into which it is not possible to convert? If so please provide details.

No organisations were noted into which it is unequivocally not possible to convert, although it was suggested by one responder that non-hereditary Jains may not be accepted by other Jains.

8. Do you agree with our examples of when a moral or ethical belief system can be said to be advanced? If not, please say what you do not agree with and why.

One responder stated that some of the examples given could be met by those holding belief systems which, to the majority of the general public, would not be regarded as moral or ethical.

With regard to our draft guidance on organisations concerned with advancing a particular viewpoint, another responder suggested this could have been qualified by stating that “*this does not apply where the views of the follower or adherent form a serious and coherent belief system of their own*”. This responder also suggested that “*more religiously neutral wording*” would have been appropriate.

9. Are there any other examples of ways in which a charitable moral or ethical belief system may be advanced?

The only specific other examples, given by one responder, were:

- the provision of libraries and/or reading rooms;
- consoling the sick, lonely and bereaved; and
- the provision of food and shelter.

10. How can the advancement of a moral or ethical belief system by community work be more clearly distinguished from social work of a similar kind but which has no connection with a moral or ethical belief system?

Responders noted that ‘moral and ethical community work’ can be distinguished from similar social work:

- where it is for the care of a particular group in the community where there is a specific affiliation to, or responsibility of, the organisation advancing a moral or ethical belief; or
- where it is outreach to fulfil a mission for the common good espoused by a particular organisation advancing a moral or ethical belief.

One responder considered that our distinction between the two types of work was ‘*highly questionable in law and potentially pernicious*’. Another responder suggested that the two types of work could be characterised as “*the relief of those in need*”.

That responder also noted that community work may, in certain instances, stem from “*... pure human sympathy without there being an articulated or systematised belief system which prompts it*”.

11. Do you find this list [the list of examples of ways in which advancing a moral or ethical belief system has the potential to be for the public benefit] relevant and helpful? Are there examples of ways in which it

can be shown that the advancement of a moral or ethical belief system is for the public benefit? If so, what are they?

One responder was concerned about the possibility that the list might be used as a kind of 'tick-box' for potential charities where, if they fail to fulfil a percentage of these, they will not be registered.

One responder suggested that the list could also include wording along the lines of *"supporting followers and helping them with difficulties arising to or from their lifestance"*.

12. Are organisations for the advancement of moral or ethical belief systems likely to have any difficulty in demonstrating that the benefits they provide are related to their aims?

The primary issues raised by responders were:

- a view, from one responder, that the Commission should stress that the public benefit to be demonstrated should relate to the purposes and not the activities of the organisation; and
- another responder said it would be a *"mistake to discount in relation to an organisation for the advancement of moral or ethical belief systems, evidence which supports the provision of benefits which can be categorised as belonging to other descriptions of charitable purposes"*.

13. Do you know of any moral or ethical belief systems which require their followers, adherents or members to live together in communities? If so, please provide details.

Only two responders specifically answered this question, suggesting several examples (some of which are now defunct) including the Camphill communities and Braziers Park College (an exempt charity). Other belief systems which may be considered religious belief systems, such as the Exclusive Brethren and the Bruderhof Community, were also mentioned.

14. Do you have any comments on our suggested approach towards charities undertaking activities in a foreign country which might be subject to local legal challenge?

One responder suggested that the guidance should be amended to read "... some organisations, which are recognised as charities in England and Wales might have aims that are illegal **or are considered socially unacceptable** in another country, or might be carried out in a way that is illegal or **socially unacceptable** in another country. **In addition, some organisations may find themselves promoting aims or carrying out activities which are considered socially unacceptable or undesirable, or politically incorrect, in parts of the community in this country**" [their suggested amendments to our text appear in bold]. They quoted several

theoretical examples including a secular adoption charity, working in Africa, Middle East or South Asia, arranging adoptions for same sex couples in England and Wales.

15. Is there anything that you would have expected us to cover in this draft supplementary guidance that we have not included?

One responder suggested that *“...if the guidance is to indicate the charitable purposes that an organisation could have, then it should describe the kinds of public benefits to which the advancement of those particular purposes is designed to lead”*.

One responder objected to the following sentence in the first paragraph of Principle 2a in section E2:

“However, we would expect to see a wide public benefit going beyond the members of an organisation promoting a moral or ethical belief system”.

The responder stated that, as that guidance is not included in the guidance for the advancement of religion, it should either be added there or removed entirely from this guidance.

One responder noted a concern about the guidance around ‘proselytism’ – asking whether an organisation that advances religion would be granted charitable status if it was committed to the elimination of another belief (quoting as an example the humanist activity of discouraging faith schools).

16. We recognise that there will be similarities between charities advancing religion and those advancing moral or ethical belief systems and, where possible, have sought to ensure equality of treatment with regards to the public benefit requirement for each. Do you consider that the issues raised in this guidance, the language and examples used, are relevant to and appropriate for organisation advancing moral or ethical belief systems?

Three responders raised concerns about the specific reference to our published decision on the charitable status of the Church of Scientology (England and Wales) in this guidance. One responder commented that this is *“unfair; and inappropriate”* given that the organisation referred to in that decision disputes the issues raised.

Four responders directly answered this question. Their comments included:

- *“we endorse the underlying approach taken by the Charity Commission”* but added that there were areas where the guidance failed *“to establish parity between religious and non-religious organisations”*; and
- *“we find it confusingly written”*.

17. What do you think of the clarity, style, format and language overall used in this draft supplementary guidance?

Only three responders answered this question directly and their comments ranged from *“in general, the clarity, style, format and language of the guidance is clear”* to *“confusing, inaccurate and unhelpful”*. Another stated that *“the document is structurally repetitive and, as a result, much of the text is repetitive as well which makes this document longer than it need to be ...”*

In summary, whilst there were some positive comments some responders stated that the document was not always clear, and that they found it confusing. Other responders noted some duplication within the text itself and from the guidance on public benefit and the advancement of religion.