

Public Benefit and the Advancement of Religion - June 2008

a Response by the Maranatha Community to the Charity Commission

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Who we are:

The Maranatha Community is a free, open and loving Christian movement, active throughout the United Kingdom and abroad. It is a scattered Community of thousands of Christian men and women drawn from all the main traditions. It includes members of the Church of England, Roman Catholics, Methodists, Baptists, Penticostalists, Congregationalists, Salvationists, Presbyterians, Episcopalians, Orthodox, and members of the Church in Wales, the United Reformed Church and various new and community Churches. Its members are actively engaged either professionally or voluntarily in a variety of community service and relief projects.

Thank you for the opportunity to comment on the Commission's Draft Guidance, and for the helpful way in which the Guidance has set out a most important and yet complex subject.

We note and agree with your comments about religious belief and faith having both personal and public dimensions, that there already exists a body of law on the subject, and that the Commission does not consider itself to be the regulator of religion itself.

We also note that Trustees will now have a specific requirement, along with Trustees of all charities, to report on their charity's public benefit.

Q1) What would be the most appropriate terminology for us to use to describe the object or focus of a religion?

Although we accept the term 'Supreme Being', Christians refer to 'God' and would have difficulty in conceptualising the worship of an 'entity' or a 'principle'.

Perhaps the suggestion of the National Institutions of the Church of England to refer to 'a divine or transcendental being or *reality*' might be helpful.

Q2) Do you have any comments on the suggestion that one way of describing a coherent belief system is: 'a collective belief that attains a sufficient level of cogency, seriousness, cohesion and importance and that relates the nature of life and the world to morality, values and/or the way its believers should live'? Do you wish to suggest alternative wording?

This may well be a very appropriate phrase to use, but we would suggest that "its believers" in the last line be replaced with "people". As it derives, we understand, from case law at the European Convention on Human Rights, which covers both religion and belief, it is important to make the point that there is a fundamental difference between religion and belief – particularly to avoid the risk of inadvertently allowing trustees of non-religious charities to think their charity should be included under this Head. (The promotion of spiritual and moral welfare for non-religious organisations, ie charities which though not for the advancement of religion but which may well attain "a sufficient level of cogency, seriousness, cohesion and importance that relates the nature of life and the world to morality, values and/or the way people should live", should now, we understand, fall under the 13th Head - previously the 4th.)

It may also be helpful to repeat that the Commission does not attempt to decide which religion is true (B5), and to confirm which established World Religions, in the opinion of the Commission, *do meet* the test of being coherent belief systems as protected by the European Convention on Human Rights (rather than "*are capable of meeting*").

Q3) What would be the most appropriate terminology for us to use to describe 'worship' or other forms of relationship with a supreme being or entity?

Q4) If you are a follower or an adherent of a religion, do you have a different expression to describe your relationship with your 'supreme being or entity'?

The Charity Commission's decision in 'The Church of Scientology' considered 'worship' in the context of 'religion' and referred to 'conduct indicative of reverence or veneration for (a) supreme being' as 'objective criteria by which worship can be identified (as) recognising an organisation to be charitable as advancing religion ... at the same time as being sufficiently broad to allow recognition of a range of belief systems commonly recognised as religions'.

'Worship' to Christians embraces the whole of life, based on belief in God and God's revealed Word. Believers may enjoy a 'relationship' with God, but that relationship is based on worship, so the word 'worship' is crucial in this context. We accept that other expressions, including 'relationship', may be needed though in addition to worship, especially for non-theistic beliefs.

Q5) Do you agree with our examples of when a religion can be said to be advanced? If not, please say what you do not agree with, and why.

These are all good examples, though perhaps it might be confirmed that the List is non-exhaustive.

'Evangelising' is the word much more commonly used by Christians than 'Proselytising', and we suggest it be given as an alternative in the heading.

Evangelising is and always has been central and vital to Christianity (Jesus commanded 'go and make disciples') and we understand that this was reconfirmed as being of public benefit by Standing Committee A on 25th October 2006. We acknowledge that there may be improper ways in which proselytising might be carried out, but feel strongly that the explanation in C4 - whilst giving examples of improper activities - should give more affirmation of evangelising and present the activity in an overall positive rather than a neutral or negative light.

We do have concerns though with limitations of the examples in the text box on p17: religious texts may motivate one person or many, but the 'one' may be the visionary – as in the case of William Wilberforce and slavery, and many others – whose concern and persistence eventually persuade many and lead to changes in public opinion and the amendment of inappropriate or unjust laws.

Q6) Do you wish to suggest any other examples of ways in which religion can be advanced?

The List begins "the provision and maintenance of a building used for religious practise ". For the avoidance of doubt, we suggest that specific confirmation to be included that a Church or place of worship which holds public services *does* meet the public benefit requirement, as it is possible that some Trustees might conclude that 'provision' means ownership, whereas, for example, new or House Churches and Fellowships may meet in rented or borrowed accommodation.

'Religious practise' might then go on to include praise, prayer, and healing.

Under 'Missionary and Outreach Work' there needs to be confirmation that this may be local, national, or overseas.

Q7) How can the advancement of a religion by pastoral work be more clearly distinguished from social work of a similar kind but which has no connection with a religion?

Churches and Christian charities include pastoral work as part of their religious practice because love of God translates to love of neighbour (Bible, Old Testament - Leviticus 19:18 and New Testament - Matthew 22:39).

It is not an option – they are two sides of a coin. Other faiths may be motivated in a similar way. So religious pastoral work can be distinguished from secular social work not only by terminology but by the motivation and ethos which inspire it. Social work is more likely to be paid, and performed out of a sense of civic duty – nothing wrong with that, just a different motivation.

Q8) Would it be helpful to offer more guidance on the limitations imposed on the advancement of religion by human rights and discrimination legislation? If so, in what areas in particular?

It is appropriate that the Guidance states in C4 that 'charity law recognises that proselytising is an activity capable of advancing religion' (para 1) and 'In most cases, lawful proselytising by charities advancing religion does not present public benefit difficulties'.

However, human rights and discrimination legislation can be highly sensitive and controversial, and it would not appear to be part of the Commission's remit to become involved in a conflict of rights, even though 'discrimination' includes discrimination on the grounds of religion. Employment and discrimination law exceptions for religious bodies and individuals might be identified here though.

Perhaps it would be appropriate for the Guidance to confirm that there is a presumption in favour of freedom of religion, and that the Commission's stance is that of minimal interference regarding this freedom.

Q9) In the light of assurances given in this Section, is it clear enough how our assessments in the light of current social and economic conditions will affect our assessment of organisations established to advance religion? If not, in what way might it be clarified further?

It is good that this Section begins with the assurance that long-held religious beliefs will not be subjected to modernisation or change, and ends at D2 with the statement that ‘As Charities and Public Benefit makes clear, charitable status is not decided on the basis of public opinion’.

However, what is not clear is how ‘what is relevant and appropriate for current social and economic conditions’ can or will be assessed in the context of this first paragraph.

Two further points of Guidance also seem to fit uneasily alongside the opening para –

On p23, ‘to be recognised as charitable, all organisations advancing religion must have a moral and ethical code which is capable of impacting on society in a beneficial way’, and p24, ‘It will no longer be sufficient to simply say that the religious beliefs are not immoral or are not of proselytising is that they are for the public benefit’.

Does this Guidance indicate that the Commission intend to assess the moral and ethical code of each Charity, and if so, how and when will this be done without ‘subjecting each long-held religious belief to modernisation or change’?

The third para of D1 begins ‘We recognise that *several* mainstream religions ...’ This seems to imply *that some will not: would ‘various’ be better than ‘several’*?

Q10) Are there other examples of ways in which it can be shown that the advancement of religion is for the public benefit? If so, what are they?

The box begins ‘Where there is sufficient evidence of benefit to society, the following are examples ..’

However the penultimate para on p23 states ‘With religion though, some of the benefits are not tangible and could potentially be difficult to identify’ We are not certain of the compatibility of these two statements, and how ‘sufficient evidence of benefit to society’ is to be measured and recorded.

With regard to the very helpful examples, it might be more practical if particular examples of, say, a church, synagogue mosque and temple were chosen, and examples attributed to each.

Q11) Is the often inherently intangible nature of religion dealt with clearly enough?

As in the Consultation on Advancement of Education, it is essential to confirm that “The broad benefit of (religion) is likely to be self evident “. As it stands, the Religion Draft seems to convey mixed messages. At one point it acknowledges that “some of the benefits are not tangible and could potentially be difficult to identify. However, this is not to say that a public benefit assessment would only take account of tangible, practical benefits”; whereas earlier it says “if it is not possible to show evidence of a benefit, then the law cannot take account of it in assessing public benefit”. By definition, benefits which are not tangible cannot be proved (or shown), so the two statements seem to be in contradiction.

The Draft (p 23, E2) states ‘As between different religions, the law is neutral’: perhaps there is a danger here of the Commission inadvertently setting itself up to test religious belief.

Q12) Is it common for a charity for the advancement of religion to have more than one aim? Is it clear enough what the aim of an organization established to advance a particular religion is, and what activities fall under another charitable purpose? Are organisations for the advancement of religion likely to have any difficulty in demonstrating that the benefits they provide are related to their aims?

A typical Church or Christian charity may very well introduce and discontinue various activities from time to time in support of its aims and in recognition of topical or local needs. These may not strictly involve specific obligations, but simply recognise how the outworking of Christian faith may be appropriate at and in any given time and circumstances. Working with young people may be a good example, as Local Authorities have pulled back from their (secular) involvement in recent years. Work with other groups, whether on or off the Church's premises and according to personnel available, goes on all the time, as does arranging collections and support for emergencies both local and elsewhere. *See also Q7 above.*

Amendment of the governing instrument is not something to be done more often than absolutely necessary, and it should not act as a deterrent to the Church reacting to public benefit which falls within its wider object of the advancement of religion.

However, the Church should describe its activities both to its members and the general public (and the Charity Commission!), and the Trustees' Annual Report would seem the appropriate place to do this.

Q13) 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?

We note that the Commission advises that 'Trustees should assess the extent of the risk that (in certain circumstances) they may be running and the extent to which that risk can be removed or reduced', and it is important that known risks – including proselytising - should be discussed with staff and volunteers. Should staff and volunteers agree to accept these risks, Trustees should be free to exercise commercial judgement as to the acceptability or otherwise of particular work or activities.

International Human Rights laws should be allowed to take precedence if other risks are deemed by the persons involved to be acceptable, and the charity's status should not thereby be in jeopardy.

A Registered charity which exposes human rights abuses in a country with which the UK Government wishes to be on friendly terms should not thereby have its charitable status jeopardised.

Q14) Is there anything that you would have expected us to cover in this draft supplementary guidance that we have not included?

Appropriate Statements and guidance covering the Commission's position with regard to:

Protections relating to religion and free speech under the Human Rights Act 1998 and the ECHR

Discrimination (or lack of) on the grounds of religion or belief under the Equality Act 2006 (11).

Q15) What do you think of the clarity, style, format and language overall used in this draft supplementary guidance?

F3 Membership We are concerned that, no doubt unintentionally, there is an ambiguity in the penultimate paragraph, where it says the CC 'would expect to see membership open to all those (over 18) *interested in the aims of the organisation*. Somebody seeking to wreck the charity could be said to be 'interested' in it! Further, this expression would seem to imply that anybody would have to be admitted whether he or she accepted the beliefs of the particular Church etc, except and only if the Trustees, acting reasonably and properly, consider it in the best interests of the charity to refuse the application. Membership of a Church or other religious institution, which invariably includes a declaration of acceptance of particular beliefs, is very different to membership of a Club.

No doubt a more appropriate form of words will be found.

Evangelism or proselytising is of crucial importance to the advancement of many religions, and we would like to see it more appropriately recognised as such in the revised Guidance.

The subject is complex, so perhaps it would be helpful to re-emphasise that the Guidance is about *Trusts for the advancement of religion*, not about *religion*.

And finally, we agree with and welcome the general statement in the Guidance that "There is no 'one size fits all, against which we judge the public benefit of the aims of an individual organisation. We consider each case on its merits"

Thank you for affording us the opportunity to comment on this Guidance.

May we assure you that our prayers are with you for a successful outcome to the process!

On behalf of the Maranatha Community

John Tame, Chairman of the Trustees
30th June 2008.