

Response from The Evangelical Alliance to the Charity Commission Consultation on Draft Supplementary Guidance on Public Benefit and the Advancement of Religion

Introductory Comments

The Evangelical Alliance (Charity No. 212325) welcomes the opportunity to respond to this consultation. The Alliance has been engaging closely with both Government and Charity Commission in relation to the Charities Bill since its inception in 2001. We appreciate the constructive way in which the Commission has worked with us and others during the long and complex consultation process and have frequently publicly expressed our support for and recognition of the Commission's generally helpful approach.

We are also consistently involved with other faith groups in relating to Government on a range of equality and diversity issues, not least in the setting up of the Equality and Human Rights Commission (ECHR).

The Evangelical Alliance was founded in 1846. It is the largest body serving evangelical Christians in the UK, and has a membership including denominations, churches, organisations and individuals. In its formative years the Alliance particularly stood for the victims of religious persecution and enabled evangelicals from different denominations to work together. It is the umbrella body that brings together a majority of Britain's 2 million Evangelicals. The 1998 English Church Attendance Survey revealed that 35% of Anglicans, 87% of Baptists, 78% of Independents, 35% of Methodists, 93% of New Churches, 93% of Pentecostals, 21% of URC members, and 63% of those attending other churches identified themselves as Evangelicals. The Alliance exists to promote unity and truth amongst these churches, individuals and evangelical organisations, and to represent their concerns to the wider Church, State and society. There are over 3,300 churches in membership with the Evangelical Alliance. Amongst its many member organisations are well known historic charitable bodies such as the Salvation Army, CARE, the Shaftesbury Society, the Bible Society, Tearfund, etc.

As part of a movement 'uniting to change society' the Alliance promotes unity and truth, acts as an evangelical voice to the state, society and the wider church, and works collaboratively with Alliance members and other evangelicals, to present Christ credibly as good news for spiritual and social transformation.

The Alliance speaks on behalf of its members and represents evangelical concerns to Government, the National Assemblies, the media and key decision-makers. In resourcing its members and encouraging Christians to fully engage in their communities as responsible citizens, the Alliance strives to make evangelical truths publicly accessible.

The Evangelical Alliance UK is one of a worldwide network of national alliances constituting the World Evangelical Alliance and is a member of the European Evangelical Alliance. In the UK, the Evangelical Alliance works in partnership with the African and Caribbean Evangelical Alliance and Global Connections.

Evangelicals stand for orthodox, traditional, mainstream Christian belief. They are often caricatured in the media and by sometimes less than scrupulous critics as 'extremist fundamentalists' and incorrectly associated with American fundamentalist groups. This is a serious misconception. Evangelicals in Britain are not typically sectarian or marginal. In fact, they are numerically and theologically prominent in almost all major Protestant Christian denominations, as well as the extensive 'new church' sector. Recent statistical evidence suggests that at least 40% of regular

church attendees are evangelical Christians. Evangelicals account for many of the leading academics in theological and other fields. We believe that the perspective adopted in this response represents the views of the vast majority of active Christians in the UK. The most recent census figures showed that over 70% of people believed in God. We are aware that certain Christian groups sometimes adopt different approaches to Evangelicals, but these may sometimes be relatively unrepresentative and form a comparatively small percentage of the Christian population. It should also be noted that Evangelicals also form significant minority elements in certain denominations whose views may often not feature where little accountability for public statements to membership exists.

However, the Evangelical Alliance is accountable to a large Council of some 80+ representatives, and is managed by a team of executive directors accountable on a daily basis to a Board of Trustees. Its policies are regularly reviewed and tested through frequent publications, reference groups, focus groups, consultations etc.

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Responses to Consultation Questions

Q1 What would be the most appropriate terminology for us to use to describe the object or focus of a religion? (C1)

We remain unconvinced of the need to change the common law definition of religion and references to God or a supreme being are well established and accepted terms.

The definition of religion has perennially proved problematic and proved to be so during the parliamentary stages of the Charities Bill. Many do not like the OED definition. It is also very strange to see the Commission's draft guidelines suggesting that religion can be redefined depending on "economic" circumstances (p.12). The Charities Act definition is not actually a definition since it self-refers to 'religion being a religion'. If there is a 'religion' that does not involve belief in a god then would that include humanism, for example, which is a 'quasi religion' or 'non-religious belief, and claims to be a "worldview" rather than a "faith"? If it is felt that changes are necessary, a broader and more flexible working definition is preferable since it is likely to prove impossible to find any universally satisfactory definition of religion. The insistence that believers "must" believe in something should ideally be replaced by more flexible wording such as "would usually believe in". And it seems unnecessarily restrictive to add a descriptor to a 'god' having to be "personal" or "creator". In addition, the idea of a divine "entity" or "principle" adds nothing and seems unhelpfully vague – as do obvious alternatives like "worldview" or "belief system". On balance, it is probably preferable to describe the object of a religion in terms such as "usually involving belief in and worship of a god or gods, or a supreme, sacred, divine or transcendental being". On that basis there could still be a problem perhaps with Buddhism, whilst humanist organisations would presumably have to qualify on grounds other than religion and belief (e.g., "mental and moral improvement" or "other purposes beneficial to the community"), even though somewhat ironically they have made strenuous efforts to link themselves to the faith sector in their dealings, e.g., with government and ECHR. In an attempt to be more flexible, perhaps one suggestion could be to add to the definition "belief in some form of afterlife for which life in this world is a type of preparation." However, we are still unpersuaded that change is necessary

The best recent reference source for comparing how a range of leading theologians and philosophers have wrestled with the almost impossible task of defining 'religion' (and effectively fail to do so) is Mick Gordon and Chris Wilkinson (eds.), *Conversations On Religion* (London: Continuum, 2008).

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? (C1)

With regard to the accompanying text, we are not in favour of the textual descriptors "trivial" and "frivolous" in view of their subjective nature. Who decides about such categories? Whose perspective would be adopted?

Whilst generally supportive of the suggested wording which reflects case law, we would suggest that "traditional", "orthodox" and "historical" are descriptors that could perhaps be helpfully included in this regard. For example, beliefs that have demonstrably stood the test of time might more obviously qualify as a religion than new beliefs without such roots and historically attested associations. In which case, new beliefs/religions would probably require greater scrutiny.

In practice, the Commission will focus on examining the objects and activities of the belief system. It should be emphasised here that religious beliefs by definition necessarily include specific and fixed ethics and values across the complete range of moral issues.

There could inevitably still be shortcomings with the suggested description. For example, the system could be entirely cogent, serious, etc whilst simultaneously believing in the practice of child sacrifice! The important point which ought to be made clear in the guidelines is that ‘coherence’ does not involve judgements about the truth or otherwise of religious beliefs.

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? (C1)

We believe that flexibility has to be the watchword here, though “worship of or reverence towards a supreme being” seems most appropriate. Another way of approaching this question could be to add the following: “or engaging in ceremonies and practices directed towards or inspired by a supreme being”. At all events, “worship” must be retained as a necessary category. The alternative idea of ‘having a connection with’ is evidently too vague.

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’? (C1)

Many Christians would include the concept of God “inspiring motivation to a holistic beneficial quality of life, involving both public and private expression”. However, ‘worship’ remains probably the most fundamental and appropriate descriptor.

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. (C3)

The examples are certainly legitimate ways in which religion can be said to be advanced.

Comment on C2. We are not convinced about the wisdom of having a list of religions “capable of meeting the definition of a religion”. Whilst examples generally can be helpful, lists can give the impression of being prescriptive and can mitigate against the overriding important principle of flexibility. Actually, such a list achieves very little in practice and could prove problematic if a belief system finds it is not on the list. After all, the examples given only indicate those religions “*capable* of meeting”. So what is the point of the list? And how will such a list help when various versions of e.g., Christianity are being considered, which may variously be considered orthodox or heretical according to particular perspectives? Should the Commission not devote more time to defining what factors contribute towards ‘capability’ or simply decide that flexibility within certain defined constraints is the overriding imperative?

So far as Christianity is concerned “advancing religion” necessarily by definition includes ‘proselytising’ or ‘preaching and living out the gospel’ (we have pointed out elsewhere that ‘proselytism’ is regrettably not defined in the guidelines. We also consider the term to have acquired fairly negative overtones and therefore we are requesting that it receives strongly positive affirmation in the guidelines to counter such perceptions). For most Christians Christianity cannot be advanced and would not exist without ‘proselytising’ which actually is its foremost objective.

It is obvious that like anything else, not everything done in the name of religion will necessarily be advancing religion for the public benefit, just as not everything done in the name of e.g., human rights will be advancing human rights for the public benefit. However, the overriding assumption of the Charities Act is that advancement of religion is of public benefit by definition. This has always been held to be effectively self-evident. Proselytism is also self-evidently of public benefit under this definition since its major object is to supply on an ongoing basis future generations of Christians to carry on the work of advancing religion which continues to be of public benefit.

We are not sure about the rather badly worded sentence on p.16 about not advancing a political purpose in the name of religion. Presumably the Commission is concerned about single issue groups, but taken as it stands it could imply that campaigning for changes in the law, which many religious groups would regard as an essential element of their public role, was not a valid activity. The wording needs clarifying.

Also in this regard, we feel the examples quoted on p.17 are not helpful. An organisation may regard reform or repeal of the law as a very valid and appropriate way forward for the common good or to redress unfairness or injustice. In the example given, if the Equal Opportunities Commission (or ECHR) is abusing its powers, or the Sex Discrimination Act is itself proving to be discriminatory and unfair, then quite rightly organisations should be able to campaign for abolition, repeal or reform. The Church historically, notwithstanding the various denominational understandings of the relationship between Church and State, has seen its role as involving prophetic critique of government and society where appropriate.

Clearly, religion is advanced by engagement with and expression within the public sphere. Completely closed religious orders by definition may not encompass the public dimension. Accordingly, by definition there can be no attempt to exclude or unreasonably restrict religion or its followers from expressing and manifesting their religion within the public sphere apart from the rare and extremis circumstances postulated in Article 9 of the European Convention on Human Rights.

Q6 Do you wish to suggest any other examples of ways in which religion can be advanced? (C3)

With regard to the list of examples of advancing religion on pp.17-18, whilst to some extent helpful, the problem with a list like this is that it too easily may become prescriptive. It should be clearly emphasised to be suggesting some possible examples only.

Also, we feel there should be no implied qualification on proselytising by drawing special attention to further sections in the main text of this part of the document. A footnote referencing the existence of further information in the guidance document is preferable.

To maintain the principle of flexibility, we would like to see the following insertions in the list of examples: “sustaining, developing and encouraging existing adherents to grow in the faith”; “national and international mission”; and under “meetings and conferences” add “and other related events”.

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? (C3)

It is impossible to separate them in practice and we cannot see any reason why the Commission

should seek to do so, even if it were to have the competence and power to try – (which we strongly consider it doesn't).

Christian social work however is characterised by having a spiritual dimension and motivation. "Social work" does not occur in a religious context so much because of an "obligation" but because it is part of the "outworking" of a religious belief. It simply cannot be separated from the belief itself. Caring for and loving other people is a specific outworking of the Christian faith which gives Christian public service its particular distinguishing characteristics. Take away the faith dimension and you remove the motivation. Demand that a Christian suspends their faith, conscience or beliefs to carry out the public service and you demand what is a complete impossibility for the Christian. It is in effect a contradiction in terms. When such restrictions have been applied to Christianity around the world it has always proved counter-productive and harmful to society. So probably the best way of distinguishing religious from secular activity is to highlight the source of the motivation for pastoral work - which for religion is usually the holistic life convictions of the believer.

It is worth highlighting here, incidentally, that the presence or absence of "social work" has been emphasised by both Government and Charity Commission to be irrelevant regarding whether or not a religious charitable organisation confers public benefit. This is crucially important, not least since recently at least one local council has indicated it will itself use such judgements to determine whether or not churches confer 'enough public benefit' to qualify for 100% rate relief. They intend to use the Charities Act and its concept of public benefit which they will judge and apply within their own discretionary charging powers. Potentially large numbers of churches that historically never paid rates could now receive large bills that could force them to close. This would represent patent abuse of the concept of public benefit which only the Charity Commission should have power to judge and control the use of.

Charitable bodies engaged in pastoral work motivated by religion and belief will usually enunciate that belief in its objects and aims and require its trustees and staff to ensure the charity's practices conform to ethics and values associated with that belief as well as ensuring that trustees and staff themselves conform to the relevant belief.

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? (C5)

The main concern about such guidelines is that they can emphasise the negative rather than accentuate the positive and be exploited as the thin end of a wedge by those whose agenda is to restrict the public manifestation of religion.

In this context we feel the Commission's approach is likely to result in facilitating and encouraging spurious complaints against religious bodies. Why highlight religious limitations? Any limitations specified in Article 9 of the European Convention on Human Rights actually apply legally to all forms of rights, not just religious rights. They are restrictions that are intended to be applied in rare and extremis situations. Under human rights legislation, any right is limited if it becomes a threat to public order or national stability and security. So to single out religion and belief for specific limitation is both unnecessary and could be itself discriminatory. The threshold of legally permitted public manifestation of religion is very high, so any attempt to emphasise limitations just in the case of religion could tend to lower the threshold and encourage the impression that religion is or should be a special case and somehow different from other human rights strands. Accordingly, we much prefer that the Commission keeps matters flexible and we would resist strongly a list of limitations, as opposed to setting out general flexible guidance along broad lines which would clearly apply

equally to other human rights strands. We question whether in fact the Commission is exceeding its powers under the Charities Act 2006 and is unduly interfering in the affairs of religion by e.g., taking to itself – rather than it remaining the province of the courts - the power to be able to identify and weigh benefits and detriments of religion, or to pronounce on discrimination or human rights legislation, and we doubt whether some of the examples given are in accord with established case law. The Commission will need in any case to define clearly how it would define and weigh a so-called ‘detriment’.

The vast majority of ‘proselytising’ – i.e., advancing religion – is perfectly in line with public benefit requirements. We would resist any idea of the Commission engaging in the role of censorship of religious evangelistic content. In extreme rare cases - where incitement to violence or threatening behaviour is concerned, or where psychological coercion is involved - it is clearly out of line with established UK law. The key determining factor must relate to the presence or absence of coercion. Are adherents of a religion free to get out and leave? Or are they being placed in a position in which they have no freedom of choice? Coercive religion is clearly not congruent with the idea of public benefit. However, organisations that may carry out coercive practices tend usually not to be open to the public and therefore would fail to qualify as charitable bodies.

We are disappointed at the generally negative way in which the consultation appears to have approached the question of ‘proselytism’ and would like to see substantive changes made. The legal situation surrounding religious liberties, freedom of speech and public order are highly complex and this section is very vague and imprecise when making reference to it. There is also a crucial need to define the term ‘proselytism’ in the guidelines since most Christians would consider its primary meaning to refer to evangelism, preaching the gospel, persuading others of the good news of Christianity, and promoting conversion. It should be re-stated in the guidelines that proselytism is a fundamental human right and the appropriate United Nations and other human rights legislation should be cited in substantiation.

However, there are documented cases of government related bodies viewing proselytism as saying prayers or displaying religious symbols, for example. Though we disagree strongly with such interpretations, we think the Commission guidelines need to specify clearly what they are referring to when using the term ‘proselytism’. And we are further disappointed that the draft guidelines do not refer to proselytism in strongly positive terms as advancing religion and belief and declaring in categorical terms that proselytism or evangelism is unambiguously a good thing provided there is no threatening or promotion of violence, promotion of criminal acts, coercion or blackmail.

A further vitally important point we wish to stress under this section is the crucial need for the Commission guidelines to make it absolutely clear that the carrying out of activities to advance a religion is no basis for any public body refusing to make funds available. That would represent a clear attempt to compromise charities’ independence – defence of which the Charities Commission places at the forefront of its remit. In fact, we would wish to see the Commission write directly into its guidelines a clear defence of charitable independence by declaring the linking and availability of public funding to required practice that contravenes charitable guidelines to be illegal.

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 ways might it be clarified further? (D1)

We have serious concerns about this section. It lacks any real clarity with regard to how such assessments might be made in an objective rather than subjective way.

Our general concerns involve the need for assurance that Commission officials or others will not be deciding which beliefs may cause “detriment or harm” in the light of “current social and economic circumstances”. Such open-ended, subjective powers would simply play into the hands of those anti-religious elements in society that wish to enforce their view that religious charities should not cause upset to anyone. We believe that the Commission could well be exceeding its powers here and consider that it is not the Commission’s role to adjudicate on religious belief by, for example, marginalizing hundreds of years of established case law that clearly defines and protects religious charities. As a general point covering the entire consultation, given the evident numerous difficulties faced by the Commission together with questions relating to its powers and competencies to make the kind of judgements required, we strongly recommend that rather than trying to define what qualifies as an acceptable religion and is therefore of public benefit, the Commission would do well to concentrate instead on setting out criteria relating to what would *not* qualify as a religion and what would *not* be considered as being in the public interest.

We consider that making judgements about public benefit “in the light of current social and economic conditions” is far too vague, unclear and subjective. Who decides? We consider the Commission would be exceeding its powers, let alone its competency, in becoming the judge of charitable status in the light of “social and economic conditions”. There is also the risk that such vagueness and subjectivity will be exploited by those with agendas to e.g., marginalise public religion and use it like at least one local authority is currently attempting to claim that certain churches ‘are not providing enough public benefit’ and that they should therefore be charged for local rates. If the Charities Commission alone has legitimately been given powers to determine public benefit - and of course some legal experts doubt this – then it is clearly crucial that other bodies do not subsume to themselves the same categories of subjective weighing of benefit versus detriment.

There is also the difficulty that by definition religion tends to be historic, set in codified, unchangeable format, traditional, conservative and counter-cultural in relation to “current social and economic conditions”. Accordingly, something more needs to be done in the proposed guidelines to make it clear that this section applies more to new charitable purposes than to formerly charitable purposes somehow becoming no longer charitable as a result of fashion, or even emerging doctrinaire opposition or hostility to religion, in a potentially new or different anti-religious climate. In this regard, we are concerned that the Commission appears in places (e.g., pp.23 and 24) to be taking upon itself a remit to potentially judge the beneficial impact or otherwise of moral and ethical codes of religious charities despite other comments to the contrary (e.g., p.22). We wish to see clear statements from the Commission that it does not regard its remit as including the assessment of the public benefit of religious beliefs themselves.

Of course, we need to take account of the possibility of future climates of opinion that may not be so favourable to religion as they are now, and therefore interpretation of current legislation needs to be clear as to what is protected. We therefore request that the guidelines assert uncontrovertibly that historic traditional religion will not be required to update or modify its beliefs, practices and public expression to conform with the vagaries of public opinion or changing social and economic conditions. By way of historical precedent which may act by way of warning in this context, we are only too aware that public opinion reflecting Nazi ideology had far reaching disastrous consequences in the Germany of the 1930s.

A high level of evidence of actual “detriment or harm”, as established through historic case law, should continue to be required to influence assessment of public benefit. However, this should not be extended into the area of subjective feelings but remain objectively in the realm of actual physical or emotional violence and intentional threat and incitement to hatred

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? (E2)

Continued freedom to campaign on social, moral and political issues further to the outworking of religious beliefs of charitable organisations needs to be clearly enunciated in these guidelines.

An obvious addition to the examples given should be that religious charities promote individual, family, community and corporate lifestyles to encourage good citizenship.

This section should serve as an opportunity for the Commission to specify with a range of clear practical examples – which of course would not be exhaustive or prescriptive – of how religious organisations can be shown to be advancing religion in accordance with public benefit. Whilst remaining flexible, such examples would to some extent answer the need for clear practical guidelines for many religious charities.

The Evangelical Alliance has previously summarised the benefits – tangible and intangible – of religion in the following terms, and it is worth repeating it here so that the nature of spiritual benefit may be clearly understood and appreciated:

Whilst we accept that a charity's objects should be clearly and demonstrably beneficial, a major challenge in the area of religion and belief relates to how indirect or intangible spiritual benefits may be adequately articulated – especially for those who do not themselves have religious belief, are antagonistic to religion, or who are ignorant of how religious faiths work and how adherents experience the benefits. The whole area is highly subjective and cannot easily be reduced to legal terminology and tick boxes.

Whilst the benefits of religion and belief do have to be assessed and articulated in satisfactory ways, we do not accept that because spiritual benefit may be less easy to quantify its language should be marginalized in favour of secular categories. Spiritual benefit is not a notional concept. The challenge of understanding and recognising the validity, nature and language of religion and belief in terms of its particular character relating to public benefits must be taken on board. Religion and belief must be approached on its own terms. We would resist attempts to reduce the language of religion and belief to purely secular/sociological terminology or the lowest common language denominator of 'non-religious belief systems' and so-called humanist 'spiritualised principles'. Whilst it clearly needs to explain itself in understandable categories, in dealing with religion and belief its own terminology must not be discarded whilst attempting to force it into a 'one size fits all' mould that may be unsuited to its particular nature and characteristics. We would oppose any suggestion of requiring religion to speak the language of non-religions. They are usually diametrically opposed to faith and frequently share little in common, notwithstanding attempts by e.g., humanist groups to present themselves as a secular version of religion. It is therefore crucial that religious charitable organisations are asked the right and the most appropriate questions and are not merely required to check lowest common denominator tick boxes.

If it is sufficient to demonstrate public benefit to 'appreciate the arts' or to 'experience positive feelings when helping sick animals', we strongly believe that spiritual benefits offered and provided by religion and belief should be acknowledged for what they are on their own terms, for example in the 'edification and improvement' of the religion's followers. The measurement of benefit in our view depends on usage – i.e., the fact that people find religion helpful and evidence this by what they do – e.g., in attending church or by other forms of participation. Though tangible social and community activities often accompany religious faith as manifestations of the outworking of that faith, religion and belief should not necessarily have to demonstrate such other tangible benefits but should be accepted as affording spiritual health and wellbeing in its own right – however indirect or intangible. The whole point is that faith

generally equips individuals and groups with the mental and spiritual motivations necessary to be good citizens, a fact that is usually uncontested but that can easily be demonstrated by reference to statistics relating to e.g., crime and social action. Religion does not claim exclusivity in positive contribution to society, but it does claim disproportionate contribution. Indeed, most major charitable institutions owe their origins to religious motivation.

We have frequently articulated the case for religion and belief as affording public benefit and do so yet again here. We are very aware of the value contributed to society by the Christian community in particular and religion and belief in general and seek to highlight and articulate the case for charitable status to be retained for all forms of legitimate Christian religious activity, including proclamation of the Christian gospel.

There is value in restating some of the features that make the Christian community a vital part of the charity sector:

- ‘Opaque’ benefits which nevertheless are generally accepted as important for mental and physical wellbeing, such as instilling a sense of belonging, meaning and purpose, community identity, spiritual development, life skills, pastoral guidance, encouraging practice of ethical values, mental and moral improvement and good citizenship and healthy lifestyle. The role of religion and belief when acting as the national conscience has been demonstrated time and time again, for example in time of war, national tragedy and mourning, and high profile events such as Dunblane, Soham etc.
- The strong values base approach involving altruism and concern for the underprivileged that galvanises people together around core principles of love for neighbour - seeking beyond self-satisfaction to serving the needs of others, especially those disadvantaged and marginalized.
- Effective grassroots networks through churches and others - a real and active presence in our communities. The widely read report by the Joseph Rowntree Foundation in March 2006 confirms the vital contributory importance of faith as social capital, e.g., in the promotion of peace and tolerance through religious and racial harmony and the importance of helping people through ‘rites of passage’.
- High levels of voluntary action compared to the population as a whole, together with increasing evidence that Christians give proportionately more to charitable causes of all kinds than the average. For example, a 2006 survey by Christian Research entitled ‘How Christian Use Their Money and Why ...’ found that amongst various interesting statistics evangelical Christians give nine times as much to charity as the average householder. They also are more responsible about money and have significantly fewer debts than the average. Many Christian organisations are historically linked to social care and justice initiatives and they are today often the only bodies working on the front line with contemporary social problems such as alcohol and drug addiction, homelessness, domestic violence, gang culture, parenting challenges, and they visit hospitals, hospices and prisons. They are also at the forefront of support for the two thirds world.
- The values of selfless love and care for those in need that drive Christians in actively living out their faith have been major historical and current drivers to the very existence and continued vibrancy of the charitable sector. There is value and benefit in the purely spiritual aspects of practicing the Christian faith in worship, prayer and teaching that promote and enhance the spiritual dimension to human life and existence.
- Christian religious belief and practice plays a vital role in helping to restrain the darker side of human nature, promotes responsibility, respect and mutual care in society, and provides an essential ‘glue’ in holding our increasingly fragmented society together. One cannot separate faith communities’ actions to help others from the very faith that drives and inspires them to selfless acts of love. This has been recognised by the Prime Minister, for instance, in his speech at the 2001 conference of the Christian Socialist Movement. It would be detrimental to the interests of charities as a whole to remove the benefits of charitable status from Christian churches or organisations that seek to promote the Christian faith since they play such a pivotal role in engendering in society the motivation for charitable activity. Prayer, for example, in and of itself, motivates action and has been shown to be therapeutic - in and of itself. Belief in an

afterlife serves as a strong motivation towards a positive quality for life in the present world as it is seen as a preparation for eternal existence.

The Government, Prime Minister, the Chancellor and the Home Secretary have all expressed strong recent support for faith groups and the role they play in developing civic society and providing a crucial social support network in our communities. It would be wholly inconsistent with strategic government aims to regenerate our communities to penalise such groups as a result of the review of charities.

With regard to missionary or evangelistic Christian charitable organisations we often still encounter questions relating to whether evangelistic and missionary activity solely aimed at presenting and seeing responses to the Gospel will be regarded as meeting the public benefit test. This question was clearly addressed in all consultations with Government and it was clearly accepted by Ministers in the parliamentary debates on the Charities Act 2006 that such organisations unquestionably qualified for charitable status. It would be helpful to see in the Commission guidelines clear statements and examples confirming this.

In our earlier submission to the Charity Commission we urged the importance of the recognition of the obvious need for religious organisations to be able to sustain themselves into the future, which has always been done through the medium of evangelism (the non-coercive communication of the Christian faith to those not yet committed to the gospel of Christ). In the Goodman review of charities it was specifically proposed that there should be included under the advancement of religion "missionary work at home or overseas". We urge that such clarity be provided in any final guidance coming out of the current review.

We are concerned lest charitable status for religious organisations should be permitted to those practising the faith but effectively threaten to be taken away from those propagating it. It has recently been suggested that people are free to have a religious faith but are not necessarily free to act upon it. This is obviously not acceptable to religious believers where action naturally follows faith, and we have strong concerns that charities in the future may be allowed to hold religious beliefs but not necessarily be able to act upon them without risking loss of public benefit status. The argument is often made by those who question the role of religion in modern society and object to public support through charitable tax reliefs. However, there has recently been much focus on the limitation enunciated in Article 9 of the European Convention on Human Rights to manifestation of religious belief. In response we would point out that such limitations based on social harm are equally extended to every other strand of human rights, and religion and belief should not be singled out in this regard.

The Church has to be able to bring new people in so that its strength is sustained and it can continue to make a major contribution to a giving, caring and charitably inclined society. There is a relationship between religious faith in society and levels of care for others that is vital to an ongoing successful voluntary and charitable sector.

The terrible events of September 11th 2001 and later atrocities in Europe and the UK in particular have contributed to an understandable concern over militant 'fundamentalist' religious organisations. However, it is important for the Charity Commission to be able to distinguish between those organisations that are militant and aggressive in propounding their religion and the non-coercive sharing of the Gospel engaged in by evangelical Christian churches and organisations.

Q11 Is the often inherently intangible nature of religion dealt with clearly enough? (E2)

See also the answer to Q10 above.

We do not consider that this section adequately makes clear how intangible religious benefits will

be assessed in practice if, for example, 'factual evidence' (p.23) will be required.

As we have frequently pointed out in this response the Commission's approach to the guidelines often seems unwilling or unable to accept religion and belief on its own terms and requires it to jump through secular hoops and categories that are frankly not up to the task of providing adequate or appropriate evaluation. Spiritual benefits conferred as a result of religious beliefs often include categories such as 'assurance of salvation' and 'hope of heaven' or 'redemption from the penalties of sin'. How will the Commission measure such benefits which are necessarily based on spiritual concepts that do not easily lend themselves to statistical analysis, though may result in beneficial psychological and moral improvement and happier and more healthy lifestyles? Our view is that, as has been traditionally accepted, the benefits of religion are 'self-evident' and need no factual proof, and it would be helpful if the Commission guidelines could provide a clear statement to that effect.

In general, any approach to this question should be flexible and not prescriptive. Our potential concerns in this context centre on whether the Charities Commission is actually exceeding its powers under the 2006 Charities Act by becoming a regulator of religion and belief, including its beliefs and doctrines, rather than by leaving the sector to define itself and its benefits on its own terms. This combines, as we have stated frequently, with a distinct overall impression that the Commission is trying to squeeze religion and belief into a secular straitjacket. We appreciate there must be points of contact, but the prevalence of religious illiteracy in contemporary society is something for the Commission itself to address in making sure that it adequately understanding the nature of religion and belief. On the other hand, the Charities Commission should not be involving itself with judging the doctrines and the nature of belief and may stray contrary to established case law if it did so. The courts have been clear about not interfering with the internal matters of religion and it seems to us that there are too many areas where the Commission appears to be seeking to do exactly that.

We have a serious difficulty with the paragraph extending from pp.24-25 which runs the risk of appearing prescriptive and unrealistic by potentially disqualifying a restricted number of objects of an organisation.

Many religious charitable organisations may have one or two main objectives. And we certainly oppose the singling out of certain examples of potentially unacceptable objects like "gay or lesbian relationships or using contraception". Using the example quoted, it should be perfectly acceptable for an organisation to have as its objects, in conformity with what it believes to be for public benefit and the common good, e.g., devoting its activities to responding to the homosexual agenda in order to inform, correct, educate, etc, or in warning of the consequences of making contraception available to children.

Many controversial issues involve fundamental dispute about what constitutes public benefit, and we are therefore strongly against any potential charitable restrictions that would effectively involve the Commission 'taking sides' in such disputed issues by favouring certain strong lobby groups or public opinions. The Commission should remain strictly neutral when it comes to such disputed issues.

Accordingly, we would wish to see this paragraph suitably changed.

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 organisation 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? (E3)

Yes it is common.

But if all activities flow out of e.g., a motivation to propagate the Christian faith, then why would it be difficult to demonstrate transparently how everything it does falls under or emanates from that overriding charitable purpose? An organisation, for example, devoted to providing holidays, conferences or retreats for Christians and others should have no difficulty demonstrating that it encourages the advancement of religion from numerous perspectives together with the associated benefits. It should be able to demonstrate this adequately in a relatively brief statement in its annual report, though in fact in strict legal terms we believe that a charity should only have to show that it is carrying out its objects and purposes rather than prove it is providing public benefit. We wonder whether the Commission is likely to focus on new charitable applications rather than established charities, in which case the main focus of the Commission's attention will be on the objects themselves and whether the activities are in line with the objects.

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? (E4)

We have serious difficulties with this section and with this question.

Firstly, we consider that the examples of detriment and harm need to include a box setting out actual examples of what might reasonably be viewed as detrimental and harmful. This is because objective evidence must be necessary to measure what is harmful rather than subjective interpretations. Above all, the existing body of case law needs to be used for definitional purposes.

On p.26 in paragraph 1 under E4 the first bullet point in the first paragraph should ideally read "something that by consensus is dangerous, or by independent, objective medical criteria is considered damaging to mental or physical health". The second bullet point paragraph should refer to "intentional threats of violence or incitement to hatred".

In the third paragraph on p.26 we consider the last sentence should be amended to read "Disagreement with the beliefs, activities or practices of a religion does not constitute evidence of the existence of detriment or harm".

In the fourth paragraph on p.26 the first bullet point should be amended to read "any actual detriment or verified evidence of harm is outweighed by the benefits ..."

We are unhappy with the wording of paragraph 5 on p.27 in relation to proselytising. There have been cases where, for example, Christian open air preaching of the gospel has been the target of those who object to it and who may attempt to close down free speech by claiming for example that they strongly disagree or are offended and who decide to make their point by resorting to causing public disorder. In a recent case in the West Midlands the police themselves were inexcusably unaware of the law and acted out of a prejudiced subjective response. Equally, there is a large percentage of the population opposed to the proselytising activities of e.g., gay pride marches and who could decide they wish to provoke public disorder. Therefore, because a 'proselytising' activity merely "results" in public disorder, this should not be a reason to question its charitable status. Diversity involves making space for difference in the public arena and diversity should not be penalised as a result of violence. Neither should certain groups define or pursue their rights in terms of the deprivation of rights and civil liberties of others.

Accordingly, we consider this paragraph should best be removed altogether and that the Commission concentrate on questioning organisations that actively incite hatred against others.

We are particularly concerned about the suggestion that a charitable activity may be restricted because although it is legal in the UK it may be deemed illegal abroad. We believe that if something is legal in the UK then it is legal whether or not some other country regards it as illegal.

We believe the Charity Commission is wrong to suggest that religious activities that could be considered to ‘harm the national interest’ might be ‘detrimental’ and therefore unacceptable, or to propose that the quoting of sacred texts in support of political purposes may not count as ‘advancing religion’. We consider that both the guidance in *Charities Working Internationally* and this whole section on pp.28-29, as well as other relevant sections, needs thorough reworking, if not complete removal. We strongly oppose the suggestion that the Commission could act as judge of the right or wrong interpretation or application of religious texts. In that regard we believe they would be seriously exceeding their powers - and of course their competence.

Similarly, we believe the Commission may be wrongly taking upon itself the functions of the court in determining whether certain religious practices are of public benefit or not. Denying blood transfusions, for example, is clearly not publicly beneficial, and most religions reject such ideas, but the courts are able to step in in such cases where children are involved or coercion is present. The point at issue, however, is that where adults remain free to exercise personal choice the Commission should not be deciding which beliefs and doctrines are acceptable and which aren't. The crucial factors to take account of must lie in the area of coercion and violence when deciding whether public benefit is in doubt.

Of course, the trustees of a charity dedicated to international mission are going to weigh up the risks involved of work in another country. But that is a judgement to be made by the trustees, not by the Charity Commission. There are countries in the world that are ideologically opposed to Christian mission, for example, and might make proselytism illegal. But often in such countries Christians and others are oppressed, persecuted and mistreated and the UK should be pre-eminent amongst the international community in upholding universal human rights such as freedom of religion and freedom of speech, even in such circumstances. In this context it is interesting to observe that recently certain British foreign embassies decided to fly rainbow flags in support of homosexual rights in repressive countries. If embassies can so obviously support one human rights strand they must surely also be willing to support others. For example, we hope they will now be prepared to fly flags supporting Christian rights in certain countries where Christian rights are severely limited.

We strongly oppose the wording of the whole section from the bottom of p.28 to p.29. We reject the idea that legal activities that are restricted abroad should be described in terms of causing “detriment or harm” under the terms of the Charities Act. Even if e.g., Christian mission volunteers may be exposed to risk of harm or imprisonment in other countries, that is a risk they invariably undertake voluntarily. Obviously if they were coerced to go that would be a different matter. But almost all volunteers know of and accept such risks. Once again, freedom of choice should be the determining factor. The suggestion that the Commission should refuse on public benefit grounds a mission organisation's charitable status because the British Government deem there to be a possibility of conflict being stirred up in another country is bizarre. The reality is that conflicts may often be stirred up unjustly whilst fundamental universal human rights are being denied by repressive regimes – e.g., with regard to freedom of religion and belief. Such mission organisations would clearly be acting in furtherance of universal human rights.

The examples given on p.29 we regard as very poor examples, such as distribution of literature or the impact on international diplomatic relations. Any so-called “detriment” would in any case have

to be balanced with the “benefit” to the public or oppressed minorities in that country, and to suggest that a mission organisation’s work of delivering relief and good news for oppressed people should be stopped because of the Government’s concern to preserve diplomatic relations seems rather strange. Perhaps in a case of war or threat of war a case could be made for ceasing such mission activities, but at most the British Government is going to issue advice, surely not legally restrict by removing charitable status.

Accordingly, this whole section is very problematic and probably should be removed altogether.

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

We have not commented specifically on the separate consultation on public benefit and fee-charging. However, this is of great concern to a number of our members and we take this opportunity to endorse the separate response of our colleagues from Christian Camping International (see Appendix).

We would like to comment on the material included in sections F1-F5.

The paragraph at the bottom of p.30 could be summarised in terms of religious motivational factors and that religious charitable organisations are concerned with encouraging their expression – both in public and in private. It is worth emphasising that restricting the public expression of religious motivation could be extremely detrimental and harmful for public benefit.

Principle F2 on p.31 should read “The beneficiaries must be appropriate to the aims and activities”.

We question the wording of paragraph 4 on p.31. Of course, religious organisations should be open and transparent about their views, though sometimes those views may be defined narrowly and exclusively and sometimes widely and inclusively. For example, there could be difficulties for broad denominations. Is there such a thing, for example, as a ‘Baptist’ view?

Most Christian organisations, for example, employ statements of faith to which adherents must express agreement before they can become members. The historic reasons for doing this include the obvious need to maintain Christian distinctives and tenets. The Commission must be careful to distinguish between those organisations that restrict or refuse membership on grounds of complying with such statements of faith and those that simply do not welcome attendees to meetings that are supposed to be open to members of the public, whether or not they agree with the statements of faith. This relates solely to the subject of accessibility.

The last sentence of paragraph 6 on p.31 is not helpful. Who decides what is a “reasonable” way of including or excluding certain people who wish to access membership? Most religious groups set boundaries with regard to admissible beliefs, behaviours and lifestyles and they should remain free to do so in accordance with their religion. The subjective category of “reasonableness” seems completely out of place in this context. The question of membership is surely a matter for the rules and beliefs of the organisation and appeals procedures are normally contained in the rules where appeals processes may or may not include a necessity to give reasons for removal of members. It is questionable whether this matter should be the concern of the Commission at all and certainly object strongly to the suggestion that the Commission is empowered to decide the question of ‘unreasonable restriction’. We consider this whole paragraph - along with much of paragraph 1 on p.33 - is best removed entirely.

With regard to charities that are religious and that charge fees there is a perceived issue here, though as far as we can judge the main issue is one of degree and definition (NB we have not replied to the separate consultation on fee-charging charities in this respect, but in the Appendix reproduce and endorse the submission of one of our member organisations). How does one decide whether the fees for e.g., a Christian conference, are extortionate or not affordable for the less well off? How is 'affordability' defined? To what extent are people excluded and what criteria should be employed in assessing whether they actually are excluded due to the existence of fees? What is the 'correct' balance between accessibility and affordability? The theory sounds good but in reality there is often a lack of practical clarity. Certain questions therefore require to be taken into account: namely, how many people are actually or potentially excluded? Do the organisation's fees actually discriminate and exclude e.g., the poor? Who are the poor? Are the fees reasonable?

We are unpersuaded that there is a major issue here and in many cases we are aware of creative initiatives of organisations that at the same time do not have a detrimental effect on the need to deliver profitable business results. We are aware, for example, of schemes offered by some organisations to provide free or discounted places or opportunities to benefit, or to offer grants and awards.

But we do wonder whether in this regard the Commission is attempting to go too far beyond case law in seeking almost to over-engineer charitable activity to conform with government policy on inclusion and is consequently going beyond its powers. Apart from seeking to force religion and belief into secular mould, it often appears to be wanting to set itself up as the judge of acceptable religion and belief and interfering in areas that the courts have made it clear they will never get into.

We would have expected to see clear guidance to religious charities relating to the rights and protections afforded to them by law in cases where the Commission may challenge the legitimacy of their activities and the nature of associated available appeals processes.

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

The general emphasis should, we feel, be more on flexibility and on accepting religion and belief on its own terms. The impression we have is that the Commission is demanding too many secular tests for a sector that is very much 'unsecular'. Many examples are either bad, inappropriate or unduly restrictive. On balance we would prefer general flexibility to numerous examples, and we feel some examples may actually fly in the face of established case law. On the other hand, as we have pointed out, there is a lack of clear, practical, down to earth examples of how religious charities can demonstrate how advancement of religion may conform with public benefit.

In many cases improved wording and greater clarity is necessary since in a number of instances the guidance is vague and subjective in nature. We have tried to indicate the main areas in question in our response.

As a final point we would reiterate our previous overall observation that, given the evident numerous difficulties faced by the Commission together with questions relating to its powers and competencies to make the kind of judgements required, we strongly recommend that rather than trying to define what qualifies as an acceptable religion and is therefore of public benefit, the Commission would do well to concentrate instead on setting out criteria relating to what would *not* qualify as a religion and what would *not* be considered as being in the public interest.

APPENDIX

Response to consultation on Public Benefit and fee charging from Christian Camping International

- Organisation/Charity name: Christian Camping International (CCI)
- Charity number: 326637
- Contact name: Jim Hammett
- Position within organisation: Chief Executive
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- Contact e-mail: jim@cci.org.uk
- Confidentiality Statement n/a
- We are an umbrella association of 260 members who focus on the provision of Christian residential experiences in the UK. These vary from religious retreats and conferences to school parties during term time undertaking a school based curriculum course at an outdoor adventure centre. Many members run well attended and voluntary led summer camps. Members sign a basis of faith to be part of the association. Over one million people each year in the UK attend a course, conference, retreat, holiday or camp run by our members. 95% of our members are registered charities. Details appear on our website www.cci.org.uk
- The association operates worldwide in more than 50 countries.
- Several directors and staff are on government bodies that provide advice and guidance on setting new legislation in areas such as safety and educational provision. The association endorses the government initiative expressed in the ‘Manifesto for Learning Outside the Classroom’.
- Consultation response/answers to consultation questions:

Q1. Do you have any comments on our proposed approach to assessing the public benefit of fee-charging charities?

When the charities aims are to provide residential facilities then fee charging is core to their operation and none of them would exist without being able to pass on the vast majority of their costs to the user. Many will meet their running costs from fee income and capital costs from donation income. Most that have grant funds for individuals and groups will advertise these in their publicity materials.

Some will subsidise fees for some groups (eg. churches or deprived youth) by using their discretion relating the circumstances of the individual / group user of the facility to the price charged. However the majority of beneficiaries will pay the set rate.

Q2. Are there other examples of factors when assessing the public benefit of fee-charging charities that you think we should take into account?

The document states; “When we assess the extent to which fee-charging affects a charity’s ability to meet the public benefit requirement, we will take account of the level at which a charity decides to set its fees.” We consider that ‘setting fees’ has to take into consideration the fact that many of our

charities deliberately keep fees as low as possible by paying lower wages to staff who often sacrificially give of their time and skills because of the cause. That may be seen as less targeted subsidy but it does generally bring into reach the services offered to the potential beneficiaries at a greatly cheaper price than a commercial equivalent. Many also intentionally work with a high proportion of volunteers to keep costs down and see this as part of their training and motivating of those volunteers towards the wider religious cause.

Generally the facilities offered would be used at most once a year by a beneficiary and not on a more regular basis. Does this make a difference to the way that the service is interpreted as highlighted on page 16?

Q3. Do you think the key questions for trustees set out in section D3 are the right questions and are they helpful?

Some are helpful but there are other questions that should be examined.

The 'fees charged' is only one way of looking at the subsidised cost issue. The way this has been presented is rather 'one dimensional'. You have to look at both income and expenditure that will ultimately result in the setting of those fees. If costs for all those that pay fees are reduced in a way, such as lower staff salaries, then this should also be seen as a method of making the benefit open to more members of the public. Trustees should scrutinise methods of reducing fees both through increasing income from say donations/grants and reducing costs without eroding the aims of the charity. This is not clearly enough portrayed in these questions.

How do you know how to fix charges without means testing each person that benefits? The cost of doing this would rapidly outweigh the potential increase in beneficiaries.

In our context trustees could be challenged to look at how the facilities are used at reduced price when perhaps residential groups are not in. For example a local group of children using a sports hall on site at reduced price through staff and volunteers running a club which had a Christian ethos and outreach.

In answer to point 5 on page 19 would it be deemed acceptable for charities to say that if you benchmarked their work against alternatives that the fees charged are less because the trustees have chosen to pay their staff less?

Q4. Do you have any general comments on section D?

The statement; "Charities and Public Benefit explains that the opportunity to benefit from a charity must not be unreasonably restricted by ability to pay any fees charged and that people in poverty must not be excluded from the opportunity to benefit" concerns us. How does one define 'unreasonably'?

The charities we represent have to charge fees for their facilities and holidays. A comparison to non charitable / non religious providers would indicate that our members' costs are well below the equivalent. However the cost of say £200 - £250 for a residential week would certainly be seen by some to be restrictive. Grants towards this cost might be provided, but certainly would be seen by some members of the public to still be restrictive. Grants of say £50 would not help prevent some from applying on grounds of cost. It is considered impossible to fund raise so much money as to make access at what are already reduced fees low enough for open access to all. That would never

be achieved.

Q5. If you work in a particular area or field where there are additional rules or guidance that affects at what level you can set your fees, whether as a minimum or maximum, please let us know and explain what they are.

There aren't legal limits imposed however there is competition between the charitable sector providing residential activity courses for school children and the normally heavily subsidised places offered through the Local Education Authority centres. That does have a knock on effect that impacts pricing. The argument would be that the charitable sector we represent are offering one additional element which in the context of our members is the religious education element of any course/holiday. Centres therefore already have to match the LEA subsidy by paying staff less and offering subsidies through donation income.

Q6. Do you think that, where the provision of the service or facility that is charged for is one of the primary aims of a charity, trustees should, first of all, seek to provide opportunities to people who cannot afford the fees to directly access the service or facility that is charged for.

No. If this means that the charity should offer all its services at an affordable fee in all contexts then in our members' context we do not believe this is achievable without a method of means testing which would be inappropriate and very costly.

The issue of affordability relates to the relative cost at which the charity provides/delivers the service in comparison with other equivalents. If the charity does it for a cheaper rate then it helps make it more accessible to the public, particularly those who are hampered by the charging of fees. The benchmark should be the relative cost against other providers rather than the actual cost to the individual. That's to the public benefit.

We would like further clarification on the statement; "A charity might argue that the fees it charges for its services or facilities are necessarily high but, in the circumstances, are nevertheless reasonable and cost effective. Even so, the public benefit requirement means that what trustees offer in order to mitigate the impact of those high fees must be sufficient to reach people who cannot afford the fees. In assessing this, we will take into consideration the totality of the fee-charging scheme and all the ways in which people who cannot afford the full fees have the opportunity to benefit." When you are running a residential holiday or course or facility then how do you as the provider make this assessment? Many of the groups that come to centres will be very mixed in terms of their ability to pay. Whose job is it to investigate this? How would a provider budget accurately if they did not know what in-take they had over a year ahead? One year they may offer discounts to hundreds of young people and the next to only a few. The only practical way to do this in our members' context is to keep the overall price low and offer a few very limited bursaries from a restricted fund earmarked for that purpose on a first come first served basis each year.

Spreading the cost by paying in installments is something that trustees could consider more widely. Many already offer this facility by having at least a deposit system. But this could be considered more widely without increasing administration costs too much.

The cost of administering any subsidy must be reasonable in the context of the total potential saving.

Q7. Is our understanding of the difference between bursaries and scholarships correct?

Fine. We understood the two different concepts being presented.

Q8. Do you agree that ways that are designed specifically, and exclusively, to assist people who cannot afford the charges are likely to have greater impact on increasing the opportunities to directly access the service or facility that is charged for, and are therefore more likely to be sufficient in meeting the public benefit requirement, than other measures?

It is difficult to generalise, but from current experience of offering reduced prices to specific cases there is limited take up sometimes because of the stigma attached to ‘means testing’ however carefully that is done. In our experience keeping the general price low to everyone is the best way to help improve access to the public.

The document states “Measures that are designed specifically, and exclusively, to assist people who cannot afford the charges are likely to have greater impact on increasing the opportunities to directly access the service or facility that is charged for, and are therefore more likely to be sufficient in meeting the public benefit requirement, than other measures.” This is actually not always our experience. How does this square with a later statement? “It is also possible that offering one free place (effectively concentrating subsidy in one person) might have less impact overall than offering ten partially discounted places to ten people. Providing a longer-term or regular commitment to reduce fees is likely to provide greater opportunity to benefit than by providing a one-off opportunity.” That is more our experience in our context. These seem to be contradictory statements in the same document.

Q9. Aside from offering bursaries, in what instances might there be a more appropriate way for educational charities to open up direct access to the educational service or facility?

Many of our members are both religious and educational charities – they have twin aims. Because the vast majority of contexts are residential there is immediately a cost of food and lodging included for the charity to deliver the service. Some members have teams that go out into the community and deliver charitable services in schools etc...Some will also run clubs for day visitors but this is not the absolute core of the charities aims.

Most can only open up their services in the residential context where cost immediately ‘kicks in’.

Q10. Do you have any comments on our approach to assessing the impact of measures taken to open up direct access to the service or facility that is charged for?

Covered in answers elsewhere.

Q11. Do you think that it should matter whether the funding is organised by the charity itself, or by another charity (such as a grant-making charity), or by another body that is linked to the charity (but which may not be a charity itself), or by a local authority, or by another independent third party?

No. But we have increasingly found that trusts will not distribute funds to overtly religious

organisations which makes fundraising for our type of charities much harder and more dependent on individual donations to subsidise their work. Discriminatory?

Q12. Do you think our approach to assessing whether or not trustees' decisions to take no further action regarding public benefit is right?

No specific comment.

Q13. Do you agree with our approach as regards insurance schemes?

No specific comment.

Q14. Do you have other examples of ways in which organisations might provide other opportunities to benefit to people who are unable to pay the fees?

In our members' context this is hard to come up with ideas. We would not want to have charities pushed into trying to think up ways of widening access which would dilute their main aims - indeed that would not be in the interests of the charity. Examples in p43, 44 are difficult to apply to our members' context.

Q15. Would it be helpful, or more likely to mislead, if we used the concept of what ways might have greater weight than others in any public benefit assessment?

Avoid this very subjective approach.

Q16. Do you think that, in assessing public benefit, opportunities to benefit that provide direct access to the service or facility that is charged for, such as offering free places, subsidies, discounted fees, or concessions, should be given more importance than ways that provide other opportunities to benefit related to the charity's aims, such as local collaborative arrangements, or should they be given equal importance?

Equal.

Q17. Is using the concept of what 'impact' a particular way or initiative has on providing opportunity to benefit a useful one? If not, what might be a more helpful phrase to use?

Impact always implies a visible, tangible end result and when charities are in existence to promote their religion the results are not always immediately measurable. See our response to the previous consultation on advancement of religion.

Q18. Do you think that the Commission should, either as a matter of law or good practice, take into account the financial or other value that these additional ways of opening up direct access have compared with the income the charity makes from charging for its charitable services?

No. This would be a completely false measurement against the charities objectives.

Q19. Do you think that, as a matter of good practice, the trustees of high fee-charging charities should consider expressing their charity's public benefit by assessing and reporting the quantified (financial, social or other) value of the benefits they provide, alongside the value of the tax breaks, or other benefits, they receive?

No.

Q20. Do you think the amount of detail and examples we have provided in this draft supplementary guidance strikes the right balance?

The examples have been rather 'one dimensional' and very few have related into the context of our 200+ charities. We assume that our area of charity work was not foremost in the minds of those who drafted the document!

Q21. At the end of sections E – G we have included some key points for trustees to note about each section. Do you have any comments on these key points sections and do you find them helpful?

Good system.

Q22. Is there anything that you would have expected us to cover in this draft supplementary guidance that we have not included?

Wider set of examples / case studies.

Q23. Do you have any comments on specific points made in this draft supplementary guidance that are not covered by the other consultation questions?

The document states; "For some charities, providing direct access to the service or facility that is charged for might be the main or only way in which people can benefit, and providing other opportunities to benefit might not be possible, feasible or sufficiently effective." We believe in our members' context this would be the case and therefore the approach they have always taken is the correct one. For over 200 charities to end up running roughly the same system provides a strong case to show that this system is the best at achieving their aims as charities serving the public benefit. However we have concerns that the charities we represent were not considered at all when this guidance was drawn up and therefore we are concerned that 'innocent' charities may get caught up in the detail aimed at sorting out political issues relating to independent schools! We would request a meeting to clarify the implications to our members' charities.

We agree with the statement made in the document; "Each case must be assessed on an individual

basis.” A careful individual assessment when questions arise over public benefit and fee charging would have to be taken. Every charity is different in its detail.

Q24. What do you think of the overall clarity, style, format and language used in this draft supplementary guidance?

The questions whilst apparently drawing on certain specified sections of the text often do not seem to relate to that text.

Layout was good.