

The Advancement of Religion for the Public Benefit



Don Horrocks, Head of Public Affairs, Evangelical Alliance

The new guidelines, resulting from the 2006 Charities Act, apply to all religious charities whose financial year began on or after April 1, 2008

While religious public benefit was previously always automatically presumed by the law, the new legislation means churches and religious organisations now have to show this in an annual report.

All religious charities now need thoroughly to acquaint themselves with the guidelines and make the relatively modest adjustments necessary to fulfil the new requirements.

Although the new guidelines are only an interpretation of the 2006 Charities Act and are not the law itself, they apply to all religious charities in England and Wales whose financial year began on or after April 1, 2008. Trustees will be required to report on their charity's public benefit in annual reports covering periods starting on or after 1 April 2008.

Charity trustees must henceforth have regard to all of the Charity Commission's statutory public benefit guidance that is relevant to their charity. Accordingly, all trustees must be aware of the Commission's general public benefit guidance, *Charities and Public Benefit*.

In addition, charity trustees are required to have regard to the statutory guidance contained in the Commission's supplementary public benefit guidance on any subject that is relevant to their charity's aims, or the way in which they carry out those aims.

SECTION C

Section C together with Annexes A and B deal with the definition and characteristics of a religion for the purposes of charity law.

They also cover the meaning of 'advancing' religion for the public benefit and issues relating to proselytism.

In addition, they address the critical importance of charitable aims and whether a charity can have political objectives.

Section C7 deals with excepted charities.

- Definition of a Religion
- Charitable Aims and Advancing Religion for the Public Benefit
- Changing objects
- Proselytism
- Promoting Particular Tenets of Religion
- Can a Charity have Aims that are Political?
- Excepted Charities

SECTION D

Section D deals in detail with how public benefit is identified and assessed and focuses on the Commission's ***Public Benefit Principle 1*** that there must be an identifiable benefit or benefits.

It also covers the concept of ***Detriment or Harm*** which is covered in greater detail in **Annexe C.**

Principle 1a It must be clear what the benefits are

Principle 1b The benefits must be related to the aims

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

- Assessing Public Benefit
- Detriment or Harm
- The Need for Evidence
- Unlawful and Lawful Practices
- Charities carrying out activities internationally

- Something that is dangerous or damaging to mental or physical health
- Something that encourages or promotes intentional threats of violence or hatred towards others
- Unlawfully restricting a person's freedom

SECTION E

Section E also deals with the identification and assessment of public benefit and especially who the beneficiaries are, focussing on the Charity Commission's *Public Benefit Principle 2* that benefit must be to the public or a section of the public.

This section also covers the question of restricted access or membership and whether behavioural norms can be required of adherents. Other questions addressed include receipt of private benefit and charging for services and facilities.

Principle 2a The beneficiaries must be appropriate to the aims

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

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

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

Principle 2d Any private benefit must be incidental

- The Intended Beneficiaries
- Defining the beneficiaries where the benefit is to a section of the public and what restrictions are permissible regarding those who can have the opportunity to benefit
- Can a charity that provides a place of worship restrict access?
- Conformity to certain behavioural norms

- Receipt of private benefit
- Benefits to religious leaders
- Closed religious orders
- Benefits to members of a religious community
- Non-incidental private benefit
- Charging for services and facilities

SECTION F

Section F deals with trustees' duties to report on public benefit

Charity trustees have a new duty to report in their Trustees' Annual Report on their charity's public benefit. Most charities already explain their activities in their Trustees' Annual Report.

This information must now be set in the context of the charity's aims to show how in practice the aims have been carried out for the public benefit. The level of detail trustees must provide will depend on whether their charity is above or below the audit threshold.

For smaller charities, below the audit threshold, trustees must now include a brief summary in their Trustees' Annual Report of the main activities undertaken explaining how these furthered the charity's aims for the public benefit.

The summary should also confirm that the trustees have had regard to the Charity Commission's public benefit guidance, where relevant. Trustees can, of course, provide fuller public benefit statements if they wish.

For larger charities, above the audit threshold, trustees must provide a fuller explanation in their Trustees' Annual Report of the significant activities undertaken in order to carry out the charity's aims for the public benefit, as well as their aims and strategies.

They must explain the charity's achievements, measured by reference to the charity's aims and to the objectives set by the trustees.

It's up to the charity's trustees to decide how much detail they want to provide to clearly illustrate what their charity has done in the reporting year to meet the requirement; the Charity Commission states that it will not be prescriptive about the number of words or pages needed.

But a charity that said nothing on public benefit in its Trustees' Annual Report, or produced only the briefest statement with no detail, would be in breach of the public benefit reporting requirement.

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

Charity trustees are required only to report how their charity has met the public benefit requirement.

Trustees of grant-making charities are not required to establish whether charities they make grants to comply with the public benefit requirement.

This would be for the trustees of the charity receiving the grant to address.

SECTION G

Section G describes the role and approach of the Charity Commission in assessing public benefit and outlines the appeals procedure.

There is helpful guidance on how the Commission will approach potentially controversial public aspects such as consideration of current economic and social circumstances, public opinion and conflicting moral views.

- How will the Charity Commission assess the public benefit of charities whose aims include advancing religion?
- Detailed assessments of individual organisations
- What if changes are needed?
- Breach of trust
- Disagreeing with Charity Commission decisions
- What will the Charity Commission take into account when assessing public benefit?

- Presumption of public benefit
- Assessing the public benefit of an organisation advancing religion
- Benefits must be related to the aims
- Current social and economic circumstances
- Public opinion
- Conflicting moral views