

Response to Charity Commission Consultation  
on Complementary and Alternative Medicines  
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<https://www.liverpool.ac.uk/law/research/charity-law-and-policy/>

**Question 1: What level and nature of evidence should the Commission require to establish the beneficial impact of CAM therapies?**

Response: We do not think the Commission has the competence to assess the beneficial impact of CAM therapies. It is perfectly sensible to use an external proxy to make this assessment, and the House of Lords Select Committee on Science and Technology report from 2000 is a suitable one (as it draws upon evidence from key medical expert groups, such as the Royal College of General Practitioners and NICE). In addition, the Commission should remain abreast of developments in this area by referring to updates to relevant guidance (e.g. NICE guidelines).

**Question 2: Can the benefit of the use or promotion of CAM therapies be established by general acceptance or recognition, without the need for further evidence of beneficial impact? If so, what level of recognition, and by whom, should the Commission consider as evidence?**

Response: No, where the organisations are claiming that they are charitable under the purpose of the advancement of health (but see further our response to Question 6). Evidence from an external proxy (such as referred to in the response to Question 1) is the only evidence that is relevant.

**Question 3: How should the Commission consider conflicting or inconsistent evidence of beneficial impact regarding CAM therapies?**

Response: Expert evidence is unlikely to be declaratory in all cases. If there is competing expert evidence, e.g. if there is a conflict between the guidance of different proxies, we do not think the Commission is in the position to reject the evidence which supports the claims of beneficial impact. This approach is consistent with the approach taken the House of Lords in *National Anti-Vivisection Society v IRC* [1948] AC 31, where evidence about mistreatment of animals did not outweigh existing evidence as to the benefit of conducting medical research. We consider that if a respectable body of expert evidence supports the beneficial impact of the therapy, this should suffice to evidence the required public benefit.

**Question 4: How, if at all, should the Commission's approach be different in respect of CAM organisations which only use or promote therapies which are complementary, rather than alternative, to conventional treatments?**

Response: The Charity Commission should defer to the views of suitable proxies about the efficacy of both complementary and alternative treatments. We expect that – as part of the evaluation of the efficacy and safety of the treatment – the proxies will have already considered whether use of complementary treatments involves less risk of harm than use of alternative treatments.

**Question 5: Is it appropriate to require a lesser degree of evidence of beneficial impact for CAM therapies which are claimed to relieve symptoms rather than to cure or diagnose conditions?**

Response: Whilst we can see the superficial attraction of making this distinction, we feel that the same argument presented above applies here – the Commission is not in a position to evaluate the evidence, nor to determine the degree of evidence required. We would expect proxy organisations (such as those identified above) to have considered the intended purpose of a specific treatment when considering its potential benefits and its possible risks.

**Question 6: Do you have any other comments about the Commission’s approach to registering CAM organisations as charities?**

Response: Given the nature of medical research, there is inevitably a period of time between a particular treatment being considered experimental and becoming accepted. During this period, there may well be public benefit in exploring what this treatment might entail and in conducting (well-designed and ethically conducted) research into its efficacy. Whilst it is our position that the Charity Commission is not competent to make an independent judgement regarding the benefits of a treatment where it is claimed that the treatment is for the advancement of health, it is our view that the work of certain CAM organisations could be considered charitable within other ‘heads’ of charity such as the advancement of education (particularly research).

It is also our view that a strict approach to avoiding private benefit on a case-by-case basis is of particular relevance to the regulation of CAM organisations. This approach would limit the potential risk of harm from registering these organisations under the education and research ‘head’ and should address the root concerns of the organisations pressing for the charitable status of CAM organisations to be questioned.

Our final comment is that we are somewhat concerned about the genesis of this consultation, which appears to respond (at a time of severe resource limitations) to an external threat of a judicial review of decisions. The Charity Commission has been dealing with these sorts of questions for many years (at least since the decision in 1975 on the New Age Healing Trust). Provided it is following the process laid down in this consultation, there should be no cause for concern.