

CHARITY COMMISSION
DECISION OF THE CHARITY COMMISSIONERS FOR ENGLAND AND
WALES - MADE ON 15th August 2002

**APPLICATION FOR REGISTRATION OF NFSH CHARITABLE TRUST
LIMITED**

1. *The issue before the Commissioners*

The Commissioners considered an application for registration as a charity by the company called The NFSH Charitable Trust Limited (“NFSH”). If the company is established for exclusively charitable purposes it should be entered on the Central Register of Charities under s.3(2) of the Charities Act 1993. This decision has been made by the Commissioners in a Third Stage Review under the Commission’s Review Procedure.

2. *Determination*

The Commissioners

- ◆ having considered the case that had been put to them by NFSH including detailed legal submissions and supporting evidence and
- ◆ having considered and reviewed the relevant law and the constitution and activities of NFSH and the social and economic environment in which it operates

concluded that NFSH is established for the exclusively charitable purpose *to promote public health by the promotion of spiritual healing for the benefit of the public by educating and training healers and by ensuring proper standards in the practice of spiritual healing* and that they would invite registration subject to the amendment of objects of NFSH to reflect its conclusions set out in this decision.

3. *Background*

There is an existing unincorporated charity on the Register called *National Federation of Spiritual Healers*¹ which has objects “to serve the public good by the promotion of the study and practice of the art and science of spiritual healing”. The Commissioners understand that the intention is that if NFSH is registered as a charity, the assets of the unincorporated charity will be transferred to it. In considering the intended activities of NFSH, the Commissioners proceeded on the basis that its activities would be the same as the existing unincorporated organisation.

¹ Charity registration No: 211133

4. *The objects of NFSH*

- 4.1 The objects in the Memorandum & Articles of NFSH are:
“The charity is established to serve the public good by the promotion of the study and practice of the art and science of spiritual healing”
- 4.2 NFSH also asked the Commission to consider proposed revised objects as follows:
“To promote for the public good the relief of sickness and the preservation and protection of health and for that purpose to promote the art and science of spiritual healing”
- 4.3 Spiritual healing is defined as “*the healing of the sick in body, mind, emotion or spirit by means of prayer or meditation (whether or not in the presence of the patient) and the laying on of hands*”

5 *Promotion of Public Health and Relief of Illness*

- 5.1 In considering the application, the Commissioners first considered the promotion of public health as a charitable purpose. The Commissioners noted that there are a number of charities on the Register with this object². The most recent decision of the Commission on this purpose is the application of the General Medical Council³.
- 5.2 The Commissioners then considered relief of illness. They accepted a holistic definition of illness as it acknowledges the interconnection between the mind, body and spirit in the alleviation of symptoms and the cure of illness.⁴ They decided that “illness” must refer to some sickness or condition generally and objectively recognised as an illness. The Commissioners took the view that to relieve symptoms of an illness could be a means of furthering this charitable purpose and that encouraging a positive frame of mind about a person’s illness or treatment had the potential to be a means of relieving their charitable need because of the significant part it could play in the process of cure or improving health. To promote the well-being of a person irrespective of whether or not she is ill, is not capable of being charitable as relief of illness⁵. In consequence an organisation that does not distinguish between having an effect on an illness or the threat of one, from being in balance or well-being, is not capable of being charitable as its purpose is not exclusively relief of illness.

6 *The Commission’s approach to Complementary and Alternative Therapies*

- 6.1 The Commissioners considered the evidence before them including that which NFSH had produced to them, and the House of Lords Science and Technology Committee 6th Report on Complementary and Alternative

² A search on the Charities Register against “public” and “health” recorded over 2000 charities

³ Available on the website under Decisions of the Commissioners

⁴ The Commission’s guidance CC6 on the website gives further information about the Commission’s approach to this charitable purpose.

⁵ It might, however, be a means of promoting health

Medicine⁶ and the Government's response to that report⁷. The Commissioners noted that the Government "welcomes the Report, and believes that its main recommendations will help protect the interests of patients and other consumers"

- 6.2 The Commission's previously adopted approach⁸ was that except in the case of well-known therapeutic activities", evidence is required to demonstrate that a therapy is "generally accepted by the medical profession" to be therapeutically effective before agreeing that to promote a particular therapy is capable of relieving illness. When the Commissioners last considered this issue, there was a general concern that therapies might be harmful to the public, and although there is still concern about potential harm, the use of complementary and alternative medicine ("CAM") is now more widespread and there is greater acceptance of its benefit by the public⁹.
- 6.3 The Commissioners adopted the approach of the House of Lords Report which divides CAM into three categories based on a public risk analysis: Group 1 – the principal disciplines¹⁰; Group 2 – therapies most often used to complement conventional medicine and which do not purport to diagnose; Group 3 – therapies which purport to diagnose as well as treat, which in general adopt a philosophical approach and are indifferent to the scientific principles of conventional medicine.¹¹
- 6.4 The Commissioners noted that the House of Lords report had suggested that several types of evidence are desirable before a therapy is advocated, namely:
- 6.4.1 the therapy is efficacious beyond the placebo effect;
 - 6.4.2 the therapy is safe;
 - 6.4.3 the therapy is cost effective;
- Evidence as to how the therapy works (its "mechanism") is also needed.
- 6.5 For therapies in Group 2, the House of Lords Report suggests that as "*they aim to operate as an adjunct to conventional medicine and mainly make claims in the area of relaxation and stress management*"¹² there is a "*lesser need*" to have proof of the efficacy of treatment or of specific effects provided that these organisations control their claims according to the evidence available to them.
- 6.6 The Commissioners adopted the approach of the House of Lords Report to evidence. They, however, took the view that cost effectiveness (one of the factors suggested in the House of Lords report) was less relevant in establishing whether a therapy is effective at relieving illness for the purposes of charity law, except where the cost is so excessive that it cannot be said to be for the benefit of the public. They also considered that levels of customer satisfaction¹³ were an unreliable measure of the capability of a therapy to relieve illness as too many other variables may impact on satisfaction levels.¹⁴

⁶ Session 1999-2000 "the House of Lords report"

⁷ CM 5124 – March 2001

⁸ Commission's policy as outlined in its 1975 Annual Report [1975] Ch Com Rep 22

⁹ It has been estimated that there are currently approximately 50,000 CAM practitioners in the United Kingdom and some 5 million patients have consulted a CAM practitioner in the past year (House of Lords report page 123)

¹⁰ Osteopathy, chiropractic, acupuncture, herbal medicine and homeopathy

¹¹ Chapter 2, para 2.1 Group 3 is further subdivided into (i) long established and traditional systems (ii) others that lack any credible evidence base

¹² House of Lords Report Chapter 4 para 4.18

¹³ Suggested in the House of Lords Report as a possible indicator of efficacy

¹⁴ For instance that consultations with CAM practitioners are often longer than with a conventional practitioner which patients might find more satisfactory in itself.

- 6.7 The Commissioners concluded that those therapies that fall within Group 1 probably fall within the category of “well-known” therapies in its 1975 policy and it is unlikely that any further evidence of efficacy is needed before accepting these therapies are efficacious in the relief of illness.
- 6.8 The Commissioners concluded that for therapies falling within Group 2, they would adopt the House of Lords Report approach and require lesser proof of efficacy before accepting that a particular therapy was capable of relieving illness for the benefit of the public and that they would consider whether there is evidence to support the claims made for each therapy.
- 6.9 The Commissioners concluded that it may be relevant in considering whether any particular therapy has a benefit to the public to consider whether the therapy is provided as an alternative to conventional medicine or whether it is provided as complementary to it. The risk of public harm for complementary treatment is likely to be less as it is delivered alongside conventional medicine and people receiving healing will be aware of the conventional treatment options they have.

7. *Promotion of spiritual healing*

- 7.1 NFSH defines spiritual healing as “*the healing of the sick in body, mind, emotion or spirit by means of prayer or meditation (whether or not in the presence of the patient) and the laying on of hands*”.¹⁵ It also describes spiritual healing as “*restoring the balance between body, mind and spirit.. It is a natural, non-invasive, holistic approach that has the intention of promoting spiritual healing, to bring a sense of well-being and peace to the recipient*”¹⁶
- 7.2 Healing/spiritual healing is within Group 2¹⁷ and in consequence in considering this application, the Commissioners decided that they would look at the claims made for spiritual healing and the evidence available to support such claims to see whether it satisfied the level of efficacy they had agreed in paragraph 6 following the House of Lords approach.
- 7.3 The Commissioners noted that the claim made by NFSH for its efficacy is that it “*restores the balance of body, mind and spirit*”. The Commissioners noted that the impact of spiritual healing might be tangible (people being less ill) but that the claim to balance the body, mind and spirit suggests an intangible outcome that cannot be measured. The Courts have accepted that where the impact of a charitable purpose is intangible, evidence will be needed that a common consensus of enlightened opinion accepts that it is for the benefit of the public¹⁸
- 7.4 The Commissioners noted that:
 - 7.4.1 NFSH does not claim that spiritual healing is curative or diagnostic
 - 7.4.2 NFSH does not appear to claim that spiritual healing is appropriate for people who are not ill
 - 7.4.3 Evidence had been produced to them that spiritual healing has an impact on the symptoms of some illnesses
 - 7.4.4 In the case of *re Le Cren Clarke*,¹⁹ which considered principally whether healing was charitable as a way of advancing religion, the

¹⁵ *In the interpretation clause of the articles of association.*

¹⁶ *NFSH Code of Conduct para 1.9*

¹⁷ House of Lords Report categorisation

¹⁸ See The Public Character of Charities RR8 para A4

¹⁹ [1996] 1 All ER 715

- Court had also looked at whether healing was charitable as relief of illness, and had concluded that healing is “*a recognised activity of public benefit*”²⁰
- 7.4.5 the climate of public opinion is towards the acceptance of CAM although the risk of harm to vulnerable people by unregulated CAM is still evident²¹
- 7.4.6 The Commissioners’ research has not produced any evidence of public harm flowing from spiritual healing
- 7.5 The Commissioners concluded that in considering the evidence before them they should not limit their analysis to palliative treatment or to the relief of any particular illness or symptom, but should consider whether the evidence demonstrates that spiritual healing restores the balance of body, mind and spirit. The Commissioners noted that NFSH does not limit the efficacy of spiritual healing to any particular illness nor to the relief of symptoms of any particular illness
- 7.6 The Commissioners were concerned that if healers made unfounded claims to be able to cure or diagnose this could mislead the public and be harmful. In consequence they concluded that to make unfounded claims for healing would not be furthering a charitable purpose.
- 7.7 The Commissioners concluded that on the evidence before them the promotion of spiritual healing is capable of being a charitable purpose as it is capable of relieving stress and promoting health and is capable of being for the benefit of the public provided that:
- ◆ The healer does not claim to diagnose illness
 - ◆ The healer does not make unfounded claims to cure any illness
 - ◆ The purpose of the healing is to promote relief of illness rather than to promote the well-being of healthy people

8. *Does the NFSH Charitable Trust Limited have the potential to be a charity?*
- 8.1 The proposed objects of NFSH are “*To promote for the public good the relief of sickness and the preservation and protection of public health and for that purpose to promote the art and science of spiritual healing*”
- 8.2 The Commissioners concluded that promoting the art and science of spiritual healing is a means of relieving of illness subject to the provisos set out above at para 7.7. The Commissioners also concluded that it might also be a means of promoting the preservation and protection of public health.
9. *Do the activities of the NFSH Charitable Trust Limited further either the relief of illness or the protection and preservation of public health for the benefit of the public?*
- 9.1 The Commissioners noted that the principal activities of NFSH are:
- 9.1.1 Providing opportunities for members of the public to receive healing
 - 9.1.2 Regulation – membership panel; complaints and disciplinary function; referral register

²⁰ The court did not need to decide if healing was capable of relieving sickness as the particular healing was given within a religious context.

²¹ See footnote 18 & also frequent articles and regular columns in mainstream newspapers and magazines about the use of CAM

- 9.1.3 Education & Training – comprehensive; training awards; setting of standards for training to ensure healing of high standard; setting of standards for tutors; research
- 9.2 NFSH does not directly provide spiritual healing but it enables healing to be provided. NFSH has said that the purpose of its regulatory and education functions are to ensure that healing of a high standard is available and accessible to the public.
- 9.3 The Commissioners noted that the activities are similar to key activities of the General Medical Council (“GMC”) with reference to doctors. However, the GMC is appointed by statute to regulate doctors and has been given the necessary powers to do so whereas healers submit to regulation by NFSH on a voluntary basis. The Commissioners noted that one of the factors relied upon in the GMC decision to demonstrate that the regulation of doctors is capable of being an activity promoting public health, is that GMC has statutory powers to prevent a person practising as a doctor in the National Health Service. This demonstrated that its regulatory role had a clear impact on public health by preventing the public harm which might be caused if incompetent doctors were allowed to practice. NFSH has no equivalent statutory power and cannot prevent incompetent healers from practising.
- 9.4 The Commissioners noted that NFSH:
- 9.4.1 maintains a register of members
 - 9.4.2 sets educational standards and runs an accreditation system for training establishments
 - 9.4.3 provides codes of conduct, ethics and practice
 - 9.4.4 requires members to have adequate professional indemnity insurance
 - 9.4.5 has a complaints & disciplinary mechanism is available for the public who want to complain about treatment by a healer
- 9.5 The Commissioners considered that the setting of standards of practice and the regulation of a CAM are important features in assessing whether it is for the public benefit as unregulated or inadequately trained CAM practitioners could cause considerable harm, particularly to vulnerable people.
- 9.6 The Commissioners noted that in 2000 there were 15,680 practising healers²² and one main umbrella group, the Confederation of Healing Organisations “CHO”²³. It also noted that NFSH had a membership of 5,600 and is the largest of the membership organisations. NFSH is actively promoting standards of practice and is a founding member of UK Healers, an umbrella body setting standards for healers.
- 9.7 The Commissioners noted that the training package that NFSH has developed and its system of licensing tutors and admitting healers to full membership on completion of training goes towards complying with the recommendations about training made in the House of Lords report and endorsed in the Government’s response to that Report.²⁴
- 9.8 The Commissioners also noted that the NFSH Code of Conduct provides:
- 9.8.1 that healing complements orthodox or conventional medicine²⁵
 - 9.8.2 that healers describe the process to patients²⁶
 - 9.8.3 that healers must not diagnose or claim an ability to cure²⁷

²² Professional Organisation of CAM in the UK by Mills & Budd – University of Exeter

²³ A registered charity no 289689

²⁴ paras 15 onwards of the Government Response

²⁵ paras 3.5-3.9 NFSH Code of Conduct

²⁶ para 2.2 NFSH Code of Conduct

- 9.9 The Commissioners were satisfied that the provisions of the NFSH Code of Conduct met the criteria they set out at para 7.7 of this decision for establishing whether the promotion of spiritual healing is for the benefit of the public
- 9.10 The Commissioners also were satisfied that healers operating under the NFSH banner make their services widely available and that no-one is denied healing on the grounds of cost. To the extent that charges are levied, these are primarily and normally to cover expenses including insurance with little or no “profit” element. As a result the Commissioners considered that NFSH did not have a member profit bias.

10 Conclusion

- 10.1 The Commissioners concluded, having considered the activities and the proposed objects for NFSH, that the impact of NFSH’s regulation is sufficient for it to be established for the charitable purpose **to promote public health by the promotion of spiritual healing for the benefit of the public by educating and training healers and by ensuring proper standards in the practice of spiritual healing**
- 10.2 The Commissioners agreed to offer registration to the NFSH provided that it amended its objects to reflect this decision; that NFSH is able to confirm that it complies with the criteria; and that compliance with the NFSH Code of Practice is a condition of membership of NFSH. The Commissioners would encourage NFSH to take steps to maintain the professional competence of its healers²⁸. The Commissioners would be monitoring progress on these issues.

²⁷ NFSH Code of Conduct para 2.3

²⁸ NFSH does not appear to have any system of ongoing training for trained healers or continuous professional development scheme