

Public Benefit and the Advancement of Education: Summary of consultation responses

About this summary

This document summarises the feedback received by the Charity Commission in response to its consultation on draft supplementary guidance on *Public Benefit and the Advancement of Education*.

The draft guidance has now been revised and published under the title *The Advancement of Education for the Public Benefit*. This document explains how we have responded to the consultation comments, and signposts relevant sections in the published guidance.

Background information

The Charity Commission is established by law as the independent regulator and registrar of charities in England and Wales.

To be recognised in law as a charity, an organisation must have charitable purposes which are for the public benefit. This is known as the 'public benefit requirement'. Although all charities already have to meet this requirement, the Charities Act 2006 highlights it by explicitly including public benefit in the definition of a charitable purpose. It retains the current law on public benefit but creates a level playing field by requiring all charities to demonstrate, explicitly, that their purposes are for the public benefit; previously the law presumed this to be the case for charities which advance education or religion or relieve poverty.

The Act does not contain any new definition of public benefit or suggest how charities should meet that requirement. It does give the Charity Commission the new objective of promoting awareness and understanding of the operation of the public benefit requirement, and requires the Commission to issue, and consult on, guidance on public benefit, to which charity trustees are required to have regard when running their charity.

In January 2008 the Commission published its general guidance on public benefit, *Charities and Public Benefit*, following a four-month public consultation on draft guidance, which generated nearly 1,000 responses. Following publication of that guidance, the Commission launched a series of consultations on draft supplementary guidance on the public benefit of those charities most directly affected by the changes in the Act – that is charities established for the prevention and relief of poverty, the advancement of education, the advancement of religion and also fee-charging charities, which were highlighted during debates on the Charities Bill.

The consultation process

On 12 March 2008 we published draft supplementary guidance on *Public Benefit and the Advancement of Education* for consultation. The consultation period was 16 weeks, ending on 11 July 2008.

We sought to raise awareness of the consultation in a range of ways including: publication on our website; direct mailings by post and email; routine contact with charities and their representative organisations; a press release and media work; provision of speakers at a number of external events; a small external discussion group and one-to-one engagement meetings with interested charities and others.

We have engaged with numerous MPs and peers to raise their awareness of our approach to public benefit, including our consultations on draft supplementary public benefit guidance, through a series of events as well as written briefings, individual meetings and appearing before Parliament's Public Administration Select Committee.

Responses to the consultation on Public Benefit and Education

We received 165 responses in total.

All the responses we received have been recorded, analysed and taken into consideration. We are grateful to everyone who took the time to respond.

In view of the number of responses we received, and the detail and complexity of many of them, this document summarises the key themes and issues that emerged from our analysis of the responses, rather than summarising what each response contained.

Anyone who wishes to see a full list of responses, or copies of individual responses, should contact Charity Commission Direct on 0845 300 0218.

General comments about the draft supplementary guidance

- Overall, general comments on the draft guidance were positive, with responders making complimentary comments about its clarity, helpfulness and style.
- However, many responders also said that the guidance would benefit from being simplified and shortened.

Actions taken:

We have simplified and shortened the guidance whilst retaining all the key elements.

We have moved some of the more detailed examples or explanations into annexes.

We have also re-structured the sections on public benefit around the key questions for charity trustees set out in section G8 of *Charities and Public Benefit*. This has the advantage of retaining the links to the principles of public benefit whilst allowing greater freedom when drafting the guidance to focus on the particular issues that are relevant to charities covered by the supplementary guidance.

Signpost – See section D and E and Annexes A -C

- Particular issues on the overall guidance raised by some responders were:
 - concern about the amount of guidance on public benefit responders perceived that charity trustees would have to have regard to;
 - questioning of whether our supplementary guidance properly forms part of the Commission's statutory guidance on public benefit to which charity trustees must have regard;
 - a call for even greater clarity about which aspects of the draft guidance represent a legal requirement and those aspects which are best practice advice.

Actions taken:

Although all of the guidance contained in *The Advancement of Education for the Public Benefit* is of relevance for charities whose aims include advancing education, not all of the material in that guidance is statutory guidance on public benefit.

We have therefore clearly identified which sections of the guidance are supplementary public benefit guidance to which trustees of charities whose aims include advancing education must have regard.

In addition, we use the term 'must' when referring to a specific legal or regulatory requirement and we indicate throughout the guidance which sections contain a legal or regulatory requirement. Those sections are marked with the symbol **L**. We use the term 'should' when referring to items we regard as minimum good practice.

Signpost – Sections D, E and F are supplementary public benefit guidance.

- A few responders disliked our use of the term 'aims' when referring to an individual charity's purposes, although they recognised that this term is defined in our guidance as meaning a charity's individual purposes.

Actions taken:

We have continued to use the term 'aims' when referring to an individual charity's purposes, as we think it is important to be able to distinguish clearly in the guidance between an individual organisation's purposes and the description of charitable purposes in the Charities Act 2008. We have also clarified our definitions of the terms 'purposes' and 'charitable purposes'.

Signpost – See section B6 for definitions of the terms 'aims', 'purposes' and charitable 'purposes'.

Comments about our draft supplementary guidance on public benefit and the advancement of education

- Perhaps not surprisingly there was a great deal of overlap between responses to our consultation on education and our consultation on fee-charging.

Actions taken:

Responses on fee-charging made in response to this consultation were considered as part of our consultation on *Public Benefit and Fee-charging*.

Signpost – See our guidance *Public Benefit and Fee-Charging*.

- There appears to be a broad agreement with how we defined in our draft guidance what education is (particularly stressing the importance of educational merit, structure and process), with some offering helpful suggestions about the range of activities advancing education might cover, and the different legitimate or innovative ways of advancing education (such as the educational values of blogs).

Actions taken:

We have included responders' suggestions about the range of activities and innovative ways of advancing education.

Signpost – See section D2 and Annex A.

- Some responders commented on the extent to which education has to be neutral, with some preferring a less restrictive approach particularly where there is a general consensus regarding a particular issue (such as the benefits of promoting peace, or healthy eating). However a number of responders also sound a note of caution that care would be needed to ensure that propagandist or political viewpoints are not promoted under the guise of advancing (charitable) education.

Actions taken:

We have revised the material which discusses what is meant by a balanced and neutral education. We have also given an undertaking to draft and consult on separate guidance on think tanks, where 'balanced and neutral' education can be an issue.

Signpost – See sections C5 and C10.

- Many of the responses specifically addressed the charitable status of independent schools, particularly our discussion about what is the purpose of a school. Many of these responses advocate a broad interpretation of this – suggesting that schools were a community resource – not just a place of learning for children, and they said that this interpretation was significant in that it allowed for the recognition of the benefits of community activities undertaken by schools in any public benefit assessment.

Actions taken:

Our guidance recognises that the aims of a school can vary considerably from school to school and that it is a matter for an individual school's trustees or governors to set out what those aims are. For that reason, it is not implicit from an aim that simply refers to the running of a school what that aim includes; it is important that the aims are clearly expressed as this will affect how we will assess the public benefit of a school's aims.

Signpost – see Annex B: What are the aims of a school?

- There were some responses regarding the extent to which charities advancing education can restrict the benefits to children of people in particular professions (e.g. doctors, missionaries, members of the armed forces etc), or educating members of a particular profession, or restricting benefits based on academic ability – views differed about whether such restrictions could be regarded as a sufficient section of the public.

Actions taken:

Our guidance explains the circumstances in which certain restrictions might result in a beneficiary class not being a sufficient section of the public.

We have given an undertaking to draft and consult on separate guidance on professional education and professional bodies.

Signpost – see section E3