

The Advancement of Education for the Public Benefit



The Charity Commission is the independent regulator of charities in England and Wales. Its aim is to provide the best possible regulation of charities in England and Wales in order to increase charities' effectiveness and public confidence and trust. Most charities must register with the Commission, although some special types of charity do not have to register. There are some 190,000 registered charities in England and Wales. In Scotland the framework is different, and the Commission does not regulate Scottish charities.

The Commission provides a wide range of advice and guidance to charities and their trustees, and can often help with problems. Registered charities with an annual income or expenditure over £10,000 must provide annual information and accounts to the Commission. The Commission has wide powers to intervene in the affairs of a charity where things have gone wrong.

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Guidance from the Charity Commission about the advancement of education. This includes supplementary public benefit guidance for charities whose aims include advancing education.

A. Foreword

A message from the Chair and Chief Executive of the Charity Commission to trustees of existing charities, and anyone thinking of setting up a new charity, whose aims include advancing education.

Dear Reader,

The advancement of education is one of the most wide-ranging of the descriptions of purposes listed in the Charities Act 2006. It covers charities as diverse as schools and colleges, pre-school playgroups, adult learning, research bodies, think tanks, professional institutes, museums and libraries, to name but a few. The largest single group of charities on the Register of Charities in England and Wales are those set up to advance education.

The general benefits of education are universally recognised; the right to education is recognised in the Universal Declaration of Human Rights, for example. In the past, advancing education was viewed as something so important that the courts had previously presumed that the aims of any organisation advancing education were for the public benefit, unless there was evidence to the contrary. However, following implementation of the Charities Act 2006, all charities must demonstrate that their aims are for the public benefit. This guidance explains to charities whose aims include advancing education what this means for them.



Dame Suzi Leather
Chair

Andrew Hind
Chief Executive

B. Introduction

B1. What is this guidance about?

L Our guidance *Charities and Public Benefit* explains, in general terms, what the public benefit requirement means. This guidance is about how the principles of public benefit, set out in *Charities and Public Benefit*, relate specifically to charities concerned with advancing education.

Sections **D**, **E** and **F** are supplementary public benefit guidance which form part of our statutory guidance on public benefit. Trustees of charities whose aims include advancing education must therefore have regard to this.

This guidance also explains the meaning of the advancement of education.

Many charities whose aims include advancing education also charge fees for the services or facilities they provide, such as fee-charging charitable independent schools. This guidance does not deal with fee-charging specifically; that is dealt with in detail in our separate guidance, *Public Benefit and Fee-charging*.

For charities advancing education, we will publish separate public benefit guidance in relation to charitable professional bodies, bodies that provide ongoing professional education, and think tanks.

B2. What is the 'public benefit requirement'?

L 'Public benefit' is the legal requirement that every organisation set up for one or more charitable aims must be able to demonstrate that its aims are for the public benefit if it is to be recognised and registered as a charity in England and Wales. This is known as the 'public benefit requirement'.

Charitable aims are those that fall within the various descriptions of purposes in the Charities Act 2006 (including any new purposes that might be recognised as charitable in the future) and which are for the public benefit. You can find out more about this in our *Commentary on the Descriptions of Charitable Purposes in the Charities Act* on our website.

Although all charities have always had to meet the public benefit requirement, the Charities Act highlights it by requiring all charities to demonstrate, explicitly, that their aims are for the public benefit, including charities advancing education or religion, or relieving poverty, which were previously presumed to be for the public benefit.

We have an obligation to ensure all charities meet the public benefit requirement and to provide guidance on what the requirement means. Charity trustees have a legal duty to have regard to our public benefit guidance and to report on their charity's public benefit.

B3. What are the principles of public benefit?

L The two key principles of public benefit are that there must be an identifiable benefit or benefits, and benefit must be to the public, or a section of the public. These are explained more fully in *Charities and Public Benefit*.

Within each principle there are some important factors that must be considered in all cases. These are:

Principle 1: There must be an identifiable benefit or benefits

- 1a** It must be clear what the benefits are
- 1b** The benefits must be related to the aims
- 1c** Benefits must be balanced against any detriment or harm

Principle 2: Benefit must be to the public, or section of the public

- 2a** The beneficiaries must be appropriate to the aims
- 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
- 2c** People in poverty must not be excluded from the opportunity to benefit
- 2d** Any private benefits must be incidental

Each of a charity's charitable aims must satisfy these principles.

B4. Using this guidance

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This guidance represents our interpretation of the relevant charity law; it is not the law itself.

However, charity trustees do have a statutory duty to have regard to our guidance on public benefit, where it is relevant for their charity. This means they should be able to show that:

- they are aware of the guidance;
- in making a decision where the guidance is relevant, they have taken it into account; and
- if they have decided to depart from the guidance, they have good reasons for doing so.

Section **C** explains the meaning of the advancement of education.

Section **D** (supplementary public benefit guidance) explains how public benefit principle 1: there must be an identifiable benefit or benefits, applies specifically to charities whose aims include advancing education.

Section **E** (supplementary public benefit guidance) explains how public benefit principle 2: benefit must be to the public, or a section of the public, applies specifically to charities whose aims include advancing education.

Section **F** (supplementary public benefit guidance) explains how to report on public benefit.

Section **G** explains how we assess public benefit.

Annex A sets out examples of ways in which charities might advance education.

Annex B provides specific guidance on the charitable aims of a school.

B5. 'Must' and 'should': what we mean

In this guidance, where we use '**must**', we mean it is a specific legal or regulatory requirement affecting trustees or a charity. Trustees must comply with these requirements. To help you easily identify those sections that contain a legal or regulatory requirement, we have used the **L** symbol next to that section.

We use '**should**' for items we regard as minimum good practice but for which there is no specific legal requirement. Trustees should follow the good practice guidance unless there is a good reason not to.

B6. Some technical terms used

The following terms are used throughout this guidance and should be interpreted as having the specific meanings given below:

The Charities Act: the Charities Act 1993 as amended by the Charities Act 2006; or, where applicable, the Charities Act 2006.

Activities: what organisations do in order to carry out their aims.

Aims: the purposes of an individual organisation. It is important to be able to distinguish clearly in this guidance between an individual organisation's purposes and charitable purposes in general. We have therefore used the term 'aims' as shorthand for the purposes of an individual charity or an organisation applying for registration as a charity.

Audit threshold: under the Charities Act, for financial years ending on or after 1 April 2009, an audit is required when a charity's gross income in the year exceeds £500,000, or where income exceeds £250,000 and the aggregate value of its assets exceeds £3.26 million. For financial years beginning on or after 1 April 2008, but ending before 1 April 2009, the same gross income threshold applies but with a lower assets threshold of £2.8m applying when gross income exceeds £100,000.

Beneficiary or beneficiaries: the people an organisation's aims are intended to benefit.

Governing document: a legal document setting out a charity's aims and, usually, how it is to be administered. It may be a trust deed, constitution, memorandum and articles of association, will, conveyance, Royal Charter, Scheme of the Charity Commission, or other formal document.

Larger charities: charities whose income and/or assets are above the audit threshold.

Objects: an organisation's aims are usually expressed in the 'objects clause' of its governing document.

Private benefit: any benefits that a person or organisation receives other than as a beneficiary of a charity. It does not, therefore, include the sorts of personal benefits people receive as a beneficiary, such as receiving an education, or medical treatment, or a charitable grant, for example.

Public benefit reporting requirement: the statutory requirement for charity trustees to report in their Trustees' Annual Report on their charity's public benefit.

Purpose(s) and charitable purpose(s): in this guidance we use the term '**purposes**' when referring to the descriptions of purposes listed in the Charities Act. These describe broad areas of potentially charitable activity but there is no automatic presumption that an organisation with a stated aim or object that falls within one of the descriptions of purposes is charitable. To be a '**charitable purpose**' it must be for the public benefit. This has to be demonstrated in each case.

Smaller charities: charities whose income and/or assets are below the audit threshold.

SORP: the Statement of Recommended Practice, issued in March 2005 which sets out the recommended practice for the purpose of preparing the Trustees' Annual Report and for preparing the accounts on an accruals basis. The accounting recommendations of the SORP do not apply to non-company charities preparing receipts and payments accounts.

Statutory guidance on public benefit: the guidance on public benefit that we are required to produce under section 4 of the Charities Act.

The Charity Tribunal: the Charity Tribunal, established by the Charities Act, is the first level of appeal against our legal decisions.

The public generally: the public in general; the rest of the public not covered by a defined class of beneficiaries.

Trustees: the people who serve on the governing body of a charity. They may be known as trustees, directors, board members, governors or committee members. Charity trustees are responsible for the general control and management of the administration of a charity.

B7. To what public benefit guidance must charity trustees have regard?

L Charity trustees must have regard to all of our statutory public benefit guidance that is relevant to their charity.

Therefore, all charity trustees must have regard to our general public benefit guidance, *Charities and Public Benefit*.

In addition, charity trustees must have regard to the statutory guidance contained in our 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. (We indicate in our guidance which elements are supplementary public benefit guidance which forms part of our statutory guidance on public benefit.)

For example, a charity might have multiple charitable aims and charge fees for the charity's services or facilities. The trustees must therefore have regard to the supplementary public benefit guidance we have produced for each of the charity's aims, as well as our supplementary public benefit guidance on fee-charging.

If we have not produced supplementary public benefit guidance in relation to one or more of your charity's aims, you need to apply the principles as set out in *Charities and Public Benefit* to those aims.

For details of all of our public benefit guidance that is available please see our website www.charitycommission.gov.uk under 'About Charities' – 'Public Benefit'. Hard copies are available by calling Charity Commission Direct on 0845 300 0218.

Our website also contains details of our other guidance and publications.

B8. What other guidance regarding the advancement of education is available?

The legal underpinning for this guidance is set out in our *Analysis of the law underpinning the Advancement of Education for the Public Benefit*.

Our *Example Trustees' Annual Reports and Accounts* includes an example of how a charity whose aims include advancing education might report on its public benefit. We shall be adding to these examples in the future.

Education is a very broad topic and overlaps with a number of other descriptions of purposes, such as the advancement of the arts, culture, heritage and science and the advancement of citizenship and community development. The roots of these other descriptions of purposes are in education but they have developed as separately recognised purposes. In addition to this guidance, some charities concerned with advancing education might, therefore, also be interested in our separate publications *Museums and Art Galleries (RR10)*, *Charities and Unemployment (RR3)* and *Community Capacity Building (RR5)*, although these do not focus specifically on public benefit.

All of this guidance is available on our website.

C. The advancement of education

C1. What is education?

Charity law gives a wide meaning to education and does not limit it to education by a teacher in a classroom, playground or sports field.

For example, the courts have said education includes:

- giving information in a way that increases the knowledge and abilities of those being educated;
- training the mind, for instance developing memory or spatial ability;
- physical education and development of young people;
- increasing public learning and knowledge about a particular subject.

Broadly, education in charity law means what it means in contemporary speech. That might commonly be taken to mean to give knowledge to, or develop the abilities of, somebody by teaching, training or instruction, or to bring up children or young people in particular manners, habits or ways of life. Similarly, education might commonly be taken to mean the systematic instruction, schooling or training of children and young people, or, by extension, instruction of adults; and the development of mental or physical powers; and the moulding of (some aspect of) character. In the context of maintained schools and education that the State considers should be funded, the Education Act 2002 (s.78) establishes that such education should be balanced and broadly based and:

- a. promote the spiritual, moral, cultural, mental and physical development of pupils at the school and of society; and
- b. prepare pupils at schools for the opportunities, responsibilities and experiences of later life.

The meaning will evolve with changing social values. In *Charities and Public Benefit* we explain that we will assess public benefit in the light of current social and economic circumstances. As a result, what education means in charity law keeps up with these social developments whilst retaining what is relevant and valuable from the past.

In today's context, with an emphasis on life-long learning for all, education includes education for adults in the same breadth of areas as for children and young people.

Education today includes:

- formal education;
- community education;
- physical education and development of young people;
- training (including vocational training) and life-long learning;
- research and adding to collective knowledge and understanding of specific areas of study and expertise;
- the development of individual capabilities, competencies, skills and understanding.

C2. What does it mean to 'advance' education?

The Charities Act includes 'the advancement of education' in the list of descriptions of purposes. To be a charitable aim for the public benefit, education must be capable of being 'advanced'.

In general, to 'advance' education means to promote, sustain and increase individual and collective knowledge and understanding of specific areas of study, skills and expertise.

C3. Is all experience educational?

It is sometimes said that all experience is educational, and that you can learn from everything you do. Education, in the charity law context, requires something more specific than this. It requires the education to be deliberate. The educational nature of the experience must be intended, or drawn out and explained or analysed, or be structured in a way that is capable of increasing learning, understanding, skills or capabilities. There must be a connection between the experience and the process or subject for the experience to be capable of being educational.

For example, going for a walk in the country with a friend who happens to be a botanist may mean you learn the names of some plants as part of the general conversation. This happens by chance. Going on an organised walk led by that same friend where the purpose of the walk is to learn the names and the conditions in which the plants thrive, would be capable of being education. Not only would the botanist be intending to impart knowledge but it is also likely, for example, that the route of the walk will be planned to ensure that a range of different plants are seen.

C4. Is there a difference between education and the mere increase in knowledge?

Increasing the availability of factual information about some thing or opportunity in order to bring people's attention to the wider possibilities open to them may be education if the subject matter is of educational value.

However, just giving people information is not necessarily educating them. The key is whether it is provided in such a way (however structured) that it is capable of educating them, rather than just adding to factual information. This is a difficult distinction and more easily explained by an example.

For example, an organisation simply presents facts, such as football league tables or train timetables. Whilst these facts are informative, and may be of use to the recipient, we would regard them as the provision of factual information, rather than being of an educational nature. The organisation would not, therefore, be advancing education. If, however, the football league tables were given to people in the context of, and with the intention of, teaching mental arithmetic or spelling for example, then in that context they would be used as part of an educational process and so would be capable of educating people.

The provision of factual information in a library is capable of being education because, in that case, the information forms part of a structured arrangement of accessible resources for broader educational activities.

C5. Is there a difference between advancing education and promoting a particular point of view?

Education does not have to be value free and completely neutral. Education can be based on broad values that are uncontroversial which would be generally supported by objective and informed people.

For example, most people would agree that protecting the countryside, in general, is a good thing, or that public services should be efficient, so there would be no need for education to articulate the opposite view. Similarly, in educating children, teachers do not need to be neutral about treating fellow pupils as equals and bullying being wrong.

Although education can have an uncontroversial broad value base, it should allow those being educated to make up their own minds on controversial issues. This means:

- researching and presenting information in a neutral and balanced way that encourages awareness of different points of view, where appropriate;
- considering the arguments in an appropriate way related to the evidence; and
- if it reaches conclusions, those conclusions being based on evidence and analysis.

For example, if an organisation starts from the premise that public services should be effective, it can be educational to explore the different ways in which they might be more effective, but it cannot, in an unbalanced way, presume a particular approach is the best way to achieve effectiveness, unless that view is based on objective and informed evidence or argument. Even if the view has been formed based on evidence, of course any theory is hypothetical and the approach should be kept under review in light of further evidence or analysis.

If the purpose of providing information or education is to persuade people to form specific conclusions, then this is not education. Raising people's awareness of an issue to build support for a campaign is not educating them about this issue as the aim is to gain their support.

Promoting a specific point of view may be a way of furthering another charitable aim, but it would not be education.

For example, persuading people of the health benefits of a particular diet might not be education, but it could be a way of advancing health and a charity with that aim would be entitled to do this.

In the case of schools that provide education within a religious ethos, the education is advanced within the framework of a particular religion. This is often as much about operating in accordance with particular cultural and religious customs and traditions as it is about providing religious instruction. This does not necessarily mean that the education they provide is not balanced and neutral. The education provided at such schools must meet any prescribed education standards for it to be shown that it is of educational merit, as would be the case for other schools. In addition, the school might also have a secondary aim to advance religion, which complements its advancement of education aim.

C6. In what ways can education be advanced?

Education often is, but does not have to be, given in formal settings or by a formal process. Education may be delivered because the subject matter or the process is capable of being educational. Sometimes it is the topic that is capable of being educational, such as literature, or design. In other cases, it is a skill or capability that is the focus of education, such as reading or public speaking. In still others, it may involve helping to facilitate an environment in which education is more likely to be advanced. What is capable of advancing education may depend on the educational level of the people it is intended to educate.

For example, a charity established for the purpose of educating university students could not be regarded as 'advancing' those students' education by taking them through a GCSE syllabus.

Annex A sets out examples of ways in which charities can advance education. New examples may emerge as both technology and society develop.

C7. What types of charities are capable of advancing education?

Types of charities that are capable of advancing education include:

- educational establishments, such as schools, colleges and universities;
- organisations supporting the work of educational establishments, or associated with them, such as parent-teacher organisations, prize funds, standard-setting organisations, teacher training organisations, student unions, examination boards;
- pre-schools and out of school education, such as playgroups, Saturday schools, summer schools, homework clubs;
- organisations that promote the physical education of young people, such as youth sporting facilities;
- organisations providing life skills training, such as the Duke of Edinburgh award scheme, Scouts & Guides, Woodcraft Folk;
- research foundations and think tanks;
- learned societies, such as the Royal Geographical Society;
- museums, galleries, libraries, scientific institutes;
- organisations which fund people's education;
- organisations that educate the public in a particular subject, for instance in human rights, climate change, physics, personal financial management;
- information media, such as the internet, radio, television, libraries, information centres, university presses, seminars, conferences and lectures.

C8. Can unstructured information be education?

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Although education does not need to be formal, or have a formal process, it must have a sufficient structure for it to be capable of educating the intended audience. The level of structure is likely to be much simpler for children than it will be for educated adults, for example. It will also be different if the education is aimed at increasing learning in a specific subject of study, or at increasing a capability or skill.

For example:

- teaching a person to use power tools effectively should be structured to ensure safety;
- teaching mathematics should be structured to enable people to understand basic concepts before more complex concepts can be considered;
- unstructured papers on a website might be capable of being educational, where the process of looking on the website and assessing the information is the focus of the education, or where the intention is to bring people into education;
- meetings of highly educated people might depend for their structure largely on the knowledge and experience of those attending, who are familiar with educational process and capable of ensuring sufficient rigour to their discussions.

Generally, the relationship between the purpose of the information, the make-up of those it is intended to educate, and the process of delivering it determines whether information has sufficient structure to be educational.

So, for example, a collection which simply contained every Barbie doll and corresponding outfit produced over the last fifty years, without any additional information, would be unlikely to provide sufficient structure for education. If, however, it provided information about how political, social and economic trends affecting women were reflected in the changes to the dolls' outfits over the years sufficient structure may well be provided for the collection to be educational.

C9. What should charities whose aims include advancing education consider when drafting what they do as a charitable aim?

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A charity's aims are usually found in the objects clause of its governing document, which should adequately and fully express what the organisation is set up to do. All of a charity's aims should be set out in its objects clause.

The aims are essential when considering the public benefit of any charitable organisation because:

- each of a charity's aims must be for the public benefit;
- only benefits that arise from carrying out those aims can be taken into consideration; and
- the beneficiaries must be appropriate to the aims.

It can sometimes be difficult to word the objects clause as a charitable aim in the way that the law recognises as charitable. An incorrectly worded objects clause, or an objects clause that does not correctly express the organisation's aims might not only cause problems when registering the organisation, it can also lead to difficulties when assessing the organisation's public benefit.

With charities whose aims include advancing education, it should be clear exactly whom the organisation's aims are intended to benefit and how.

The following are some examples of the ways in which charities whose aims include advancing education might express those aims in their objects clause. This is not a definitive list:

- “To advance the education of the public in the subject of [insert subject to be studied].”
- “To advance the education of the pupils at [the name of the school] by providing and assisting in the provision of facilities [not required to be provided by the local education authority] for education at the school.”
- “For the public benefit to promote the education (including social and physical training) of people [under the age of 25 years] in [place] in such ways as the charity trustees think fit, including by:
 - awarding to such persons scholarships, maintenance allowances or grants tenable at any university, college or institution of higher or further education;
 - providing their education (including the study of music or other arts), to undertake travel in furtherance of that education or to prepare for entry to any occupation, trade or profession on leaving any educational establishment.”
- “To assist in such ways as the charity trustees think fit any charity in [place] whose aims include advancing education of persons under the age of 25 years by developing their mental, physical and moral capabilities through leisure time activities.”
- “For the public benefit to promote learning for pleasure by people no longer in full time employment through the continued development of their individual capabilities, competencies, skills and understanding in subjects of educational value.”
- “To advance the education of the public in general (and particularly amongst scientists) on the subject of particle physics and to promote research for the public benefit in all aspects of that subject and to publish the useful results.”

Annex B deals specifically with the aims of charitable schools.

Changing objects: where a charity reviews its aims and considers that they need to be updated to reflect accurately what it does, we can advise on this. We will consider what the charity does and how this can best be reflected in its objects clause in a way that is consistent with charity law.

C10. Can charities have aims that are political?

L To be a charity an organisation must be established only for charitable aims, which are for the public benefit. A charity cannot exist for a political aim, which is any aim directed at furthering the interests of any political party, or securing or opposing a change in the law, policy or decisions either in England and Wales or in other countries. An organisation will not be charitable if its aims are political.

Campaigning and political activity can be legitimate and valuable activities for charities to undertake. Charities can campaign for a change in the law, policy or decisions where such change would support the charity’s aims. Charities can also campaign to ensure that existing laws are observed.

However, political campaigning, or political activity must be undertaken by a charity only in the context of supporting the delivery of its charitable aims. Unlike other forms of campaigning, it must not be the continuing and sole activity of the charity.

There may be situations where carrying out political activity is the best way for trustees to support the charity’s advancement of education aims. A charity may choose to focus most, or all, of its resources on political activity for a period.

The key issue for charity trustees is to ensure that this activity is not, and does not become, the reason for the charity’s existence.

For further information see our separate guidance *Speaking Out: Campaigning and Political Activity by Charities* (CC9).

D. Public benefit - Principle 1: There must be an identifiable benefit or benefits

This section is supplementary public benefit guidance which forms part of our statutory guidance on public benefit.

D1. Key questions for charity trustees

Charities and Public Benefit sets out the following important points to consider when deciding whether an organisation's aims meet the 'benefit' principle of the public benefit requirement:

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

Section G8 of *Charities and Public Benefit* suggests a number of questions which charity trustees may find useful as a way of self-assessing the 'benefit' aspect of their charity's public benefit, and to provide information that will help assess whether or not an organisation's aims are for the public benefit.

The guidance contained in this section is structured around those questions. It sets out some key things for trustees of charities whose aims include advancing education to think about when considering each of the questions.

D2. What are the benefits that arise from your organisation's aims?

L (This question relates to public benefit principles 1a and 1b.)

It must be clear what benefits to the public arise from carrying out the charity's aims.

Education is widely recognised as beneficial. A society needs learning (knowledge about subjects) and skills and competences to tackle the many challenges of human existence.

For example, the benefits of the education provided by a school in England and Wales that teaches the national curriculum and meets the standards set by OFSTED will be clear.

The benefits of education include acquiring basic life skills, such as literacy, numeracy and citizenship skills, and can include acquiring the capacity for life-long learning. The benefits can also include the creation of a skilled workforce. Education also leads to innovation and major advancements that improve the lives of everyone.

Education is also about personal development. The development of an individual's intellectual, physical, emotional and spiritual capabilities are of fundamental value to both the individual and to the health and well being of the society around them. Education is about equipping people with the capacity to understand and operate successfully in society.

Educational merit or value

All experience or engagement with people that is claimed to be educational, will not necessarily be of benefit. To be of benefit, the education must be of educational merit or value.

There are two main aspects to educational merit or value:

- is the subject capable of being of educational merit or value; and
- is the process such that it delivers educational merit or value?

Educational merit or value can be present either in the subject, or in the process, or in both.

A very wide range of subjects, from mathematics, to dancing, to plumbing skills, are capable of being of educational merit or value. It includes subjects taught in educational establishments but is not necessarily limited to them.

Equally, a very wide range of processes, from scout camps and seminars, to publications, to interactive websites and television programmes, are capable of delivering educational merit or value.

The educational merit or value, and therefore the benefit, will usually be clear. If a subject is nonsense, it will not be of educational merit or value. If the process is so unstructured that whether or not education is in fact delivered is a matter of chance, it will not be of educational merit or value.

An organisation advancing education must provide positive, objective and informed evidence of educational merit or value where it is not clear.

For example, in one case, the Court decided that carrying out research into a new alphabet was not of educational merit or value. In another, the Court took account of evidence that an art collection was of low quality and of no educational merit or value in concluding that it was not charitable.

A modern example might be a 'wiki' site which might contain information about historical events but, if this information is not verified in any way, it would not be accepted as having educational merit or value without positive evidence.

Having been satisfied on the evidence provided, we accepted in a particular case that an interactive website was a process capable of delivering educational merit or value as it was capable of delivering learning through improving the student's analytical and learning skills.

A charity's blog, where the charity has expert knowledge in their field and seeks to exchange ideas and opinion on this subject amongst a knowledgeable audience may be of educational merit or value. Mere blogging comprised of celebrity gossip or uninformed opinion, on the other hand, is not likely to be of educational merit or value, where neither the subject matter nor the process is of educational merit or value.

If there is doubt, or a divergence of views, regarding educational merit or value, we make a decision based on the evidence (as would the Charity Tribunal or the Courts).

Increasing useful knowledge

Adding to the store of useful human knowledge is beneficial. 'Useful', here, does not mean that the knowledge is necessarily practically useful, but rather that it is capable of increasing knowledge, understanding and learning and is not nonsense. The results of research may be negative, or inconclusive, and still be of use; for knowing that a particular theory is not proved can itself be useful. Even if all that is learnt from a proper process of inquiry is that further questions need to be asked, or what those questions might be, this would be capable of increasing the store of useful knowledge.

The benefit of the provision of a factual resource, such as a library, is clear. A pile of papers in a drawer is not necessarily of educational merit or value, or of benefit, although as the raw material of research, or because it has historical value, it might be. A properly structured archive is likely to be of more benefit than a facility that is a haphazard collection.

For example, a database of Derby winners may be very useful to someone who bets on horses, but it is not in itself of educational merit or value.

Increasing useful skills, capabilities and capacities is clearly of benefit if the skill, capability or capacity is useful.

The benefit to the public should be capable of being recognised, identified, defined or described but that does not mean it should also be capable of being quantified or measured.

For example, the benefit to a young person of being motivated to learn might not be capable of quantification, but is clearly of benefit. One of the benefits of a student union is that, by looking after their welfare, students are better able to concentrate on the formal learning that the university or college provides.

Benefits must be demonstrated by facts

It is for each charity to demonstrate the benefits that flow from its aims. In most cases this will be straightforward. If the benefits are clear, nothing more will be needed to demonstrate them.

If the benefits are not clear, we will consider the evidence put to us (as would the Charity Tribunal or the Courts). For certain kinds of benefit, this may include taking into account whether the benefits are generally accepted by objective and informed people. It is a question of judgement based on the facts.

It is not necessary for the organisation to show that the way it advances education is the most effective way, but only that it is capable of being an effective way.

Benefits that are not capable of being proved

If it cannot be shown by evidence (or a consensus of objective and informed opinion) that a subject or process is capable of being educational, benefit will not be proved.

The purported 'benefit' of education that is intended to persuade people to support a controversial, propagandist or political viewpoint is not capable of proof, and for this reason not capable of being a recognised benefit.

All charities must act within their charitable aims. When assessing the public benefit of an organisation's aims, we will only take into consideration the benefits which arise as a result of the organisation carrying out its aims.

For example, if the organisation's aim is to run a school to educate boys, the benefit of educating those boys will count. The benefits to the boys of their running a luncheon club for old people in their community will also count as part of their broader education as future citizens. Although, clearly, there would also be benefits to the old people, those benefits will not count, as the organisation's aim is to educate boys by running a school, and not to provide facilities and activities for old people.

Accidental or unplanned benefits

We will not take into account benefits arising from an organisation carrying out its aims that are accidental or unplanned, and that are not related to the organisation's aims, since they cannot be used as a way of demonstrating that the aims are for the public benefit.

For example, the teaching of plant biology might result in the discovery of a new clothes dye with significant potential for commercial exploitation. This benefit is not related to the aim of teaching plant biology and, as it is accidental or unplanned, will not count, even if it is of clear benefit more widely to the community.

This does not mean that any discovery will not count towards public benefit, just that the discovery must be related to the charity's aims.

For example, if when developing new ways of managing one condition, a medical teaching hospital discovered the proposed combination of drugs therapy brought unpredicted dramatic improvement to a different condition entirely, that discovery would count towards the hospital's public benefit.

Occasionally, a charity might engage in activities that are not related to its aims. Since those activities are not related to its aims, any benefits arising from those activities are not relevant when assessing the public benefit of those aims.

For example, a scientific institute collects funds in response to an international humanitarian disaster. This is clearly a good thing, but, it is not related, directly or indirectly, to its aims and so the benefits of that activity will not count.

Wider or remote benefits

It might be suggested that an aim to educate a limited group of people provides benefit to wider society. However, only if a sufficient section of the public is educated will the benefit count as public benefit.

If a charity has more than one aim, each aim must be for the public benefit. The public benefit shown by one or more of the aims cannot be used to 'off-set' any aim or aims that lack public benefit.

For example, if a charity has an aim to advance astronomy and another aim to preserve an historic observatory, any benefit that may flow from, for example, restoring the stonework of the building, will not count in the assessment of whether the aim of advancing astronomy is for the public benefit. The benefits of the restoration can only count in relation to the aim of preserving the observatory.

As any benefit must be related to the aims, charity trustees should have a clear understanding of their charity's aims. Organisations that might appear very similar might have different aims.

For example, some educational establishments have aims which are more specific than others – for instance *"to run a school for girls aged 12-18"*; some have aims to educate people in a particular geographical area – for instance *"to educate young people in Hampshire"*.

What might be regarded as benefits that flow from activities related in some way to an organisation's aims, and what might be regarded as incidental or remoter benefits unrelated to the aims, will depend on the actual aims of each individual charity.

For example, a charity, with the aim of educating people about classical writers, houses its collection in grounds which provide a skating rink to attract visitors to the collection. The benefit of increasing visitors' awareness and understanding of the collection will count. However, the health benefit the visitors derive from the physical exercise of skating will not count in the public benefit assessment because it does not have sufficient connection with the education aims of the charity.

There has been a great deal of discussion concerning what are the aims of a school. As being clear about the aims, and the beneficiaries of the aims, will be important in assessing public benefit, we have included, in [Annex B](#), guidance on what the various aims of a school might be in current social and economic circumstances.

D2. Is there any detriment or harm that in your view might arise from carrying out your organisation's aims? Are you aware of any widespread views among others that such detriment or harm might arise?

L

(This question relates to public benefit principle 1c.)

In assessing the public benefit of an organisation's aims, we must also take into account any detriment or harm that may flow from the organisation carrying out its aims. As with assessing benefit, unless it is clear, there must be objective and informed evidence of detriment or harm; they cannot just be claimed.

For example, running a course in computer hacking might teach some general skills that are of educational merit or value, but the harm in teaching people how to hack into computers is clear and outweighs any benefit.

Similarly, a generally accessible guide on how to launder money effectively would not be for the public benefit.

E. Public Benefit - Principle 2: benefit must be to the public, or a section of the public

This section is supplementary public benefit guidance which forms part of our statutory guidance on public benefit.

E1. Key questions for charity trustees

Charities and Public Benefit sets out the following important points to consider when deciding whether an organisation's aims meet the 'public' principle of the public benefit requirement:

- 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 benefits must be incidental

Section G8 of *Charities and Public Benefit* suggests a number of questions which charity trustees may find useful as a way of self-assessing the 'public' aspect of their charity's public benefit, and provides information that will help assess whether or not an organisation's aims are for the public benefit.

The guidance contained in this section is structured around these questions. It sets out some key things for trustees of charities whose aims include advancing education to think about when considering each of the questions.

E2. Who do your organisation's aims intend to benefit?

L
(This question relates to public benefit principle 2a.)

Access to education, in whatever form it takes, must be open to the public or a sufficient section of the public. Who constitutes 'the public' or a 'section of the public' will be based on whom the organisation's aims are primarily intended to benefit. Who is being educated?

Who are the beneficiaries?

In the case of advancing education, the beneficiaries are those who are eligible to be recipients of the education.

For example, the beneficiaries of educational establishments are usually the students who have the opportunity to attend them.

For organisations that support educational establishments, the beneficiaries are usually the people who have the opportunity to be educated at those establishments.

For example, the beneficiaries of a student union are those being educated at the university or college, as they all have the opportunity of being members, even if some opt out of membership.

The beneficiaries of a charity that sets curriculum standards are the students likely to follow that curriculum.

The beneficiaries of a lecture or literary society are those who have the opportunity to attend the lectures or events.

For other forms of education, the benefits might extend to the public at large.

For example, the beneficiaries of a library or a database will be anybody who wishes, and has the opportunity, to take advantage of access to that library or database.

The beneficiaries of research are the public; the Courts have emphasised that research is only charitable if its useful results are made available to the public. This does not mean that research has to be presented in a way that is understandable by everyone. It might only be capable of being understood by people who are experts in the field. What is important is that it is published and made publicly available so that everyone who is capable of understanding it has access to it, and its benefits or usefulness are widely available to everyone.

There may be some unusual cases where the beneficiaries of a seminar or lecture are not only those who have the opportunity to attend the seminar but, because of the status and influence of the attendees, also the wider public with whom those beneficiaries interact in their everyday life. For example, a group of GPs may attend a highly technical lecture which explains why a current 'medical panic' story is factually incorrect. By presenting the facts in a generally understandable way to their patients, this may provide the patients with the information they need to help them decide whether to continue taking their medication.

E3. If the benefit is to a section of the public, how are the beneficiaries defined or what restrictions are there on who can have the opportunity to benefit?

L

(This question relates to public benefit principles 2b and 2c.)

Where the benefit is not to the public generally it may be to only a 'section of the public' where restricting benefit is reasonable and relevant to the charitable aim of advancing education. Public benefit will be affected where the restrictions are unreasonable. This means that restrictions must be legitimate, proportionate, rational and justifiable given the aim of the organisation.

Restrictions that are linked to the aim of educating those who have the opportunity to attend a school may be reasonable. For example, people living in a particular area, or people having particular educational needs, could be the basis for reasonable restrictions. However, if the restriction were based on the number of siblings a person has, for example, where there is no rational link between the restriction and the charitable aim, that would not be a sufficient section of the public

A section of the public defined by social circumstances or charitable need might be a sufficient section of the public for advancing education.

For example, restricting a life skills course to young parents would benefit a sufficient section of the public.

Many scholarship funds and bursaries are restricted to those who have the opportunity to attend a particular educational establishment. Provided that the opportunity to be educated at the educational establishment is open to a section of the public, and there are no other reasons why the fund might not advance education for the public benefit, the restriction of the scholarship or bursary fund to attendance at a particular educational establishment will not, in itself, mean that the beneficiary class is not a section of the public.

Some educational establishments might only allow attendance to children who have passed an entrance examination. If this is done purely because people without a certain level of academic ability will not be able to benefit fully from the teaching at that establishment, then this is reasonable. If, however, an establishment that provides general education wrote their entrance examination entirely in Latin, this would be using the exam as a means of exclusion.

Restrictions related to a common employer

Where access to benefits from education is restricted to the employees, or the children of employees, of a particular employer, then that is not a sufficient section of the public. The courts have considered this issue on several occasions and have taken the view that, however large is the number of people who might be able to benefit, the fact that the beneficiary class is defined in relation to a common employer makes it a private class not a section of the public. The restriction is not one that is reasonably related to the aim of advancing education, but is a restriction based, in part, on benefit to the employer.

If the restriction is to all of the people within an industry then the restriction might not affect public benefit.

For example, education that is open to everyone in the construction industry is capable of being for the public benefit.

Restrictions based on a personal or family link

The members of a particular family are, in principle, a private class of people and so, in the case of advancing education, restricting the beneficiaries to members of a family is not reasonable. However, historically, charities have been set up which have not restricted the beneficiary class, but have said that children from a particular family should be preferred. It is likely in current social and economic circumstances, and now that each charity has to demonstrate that its aims are for the public benefit, that a fund that gives preference to the children from a particular family, however large a group, would not be benefiting a section of the public. Only if the class that is preferred is, in itself, a section of the public would the charity in question be recognised as having aims for the public benefit.

Restrictions based on the ability to pay fees

This guidance does not address the issue of whether a restriction on the beneficial class that is related to the ability to pay fees impacts on public benefit. This is dealt with in our separate guidance *Public Benefit and Fee-charging*.

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

This guidance does not address the impact of whether people in poverty are excluded from the opportunity to benefit where that exclusion is related to the ability to pay fees or charges. This is dealt with in our separate guidance *Public Benefit and Fee-charging*.

E4. Does anyone receive any private benefits from your organisation, other than as a beneficiary? If so, what benefits do they receive? Are those benefits incidental?

L

(This question relates to public benefit principle 2d.)

In this guidance, a private benefit is a benefit that a person or organisation receives other than as a beneficiary of a charity.

Any private benefits will usually arise either as a necessary but incidental way of the organisation furthering its aim of advancing education, or as a consequence of doing so. In both cases, the trustees must be satisfied, on reasonable grounds, that the activity which results in a private benefit is an effective way of furthering their charity's aim of advancing education.

Private benefits can range from one-off payments for services, such as painting a charity's premises, to a contractual arrangement for ongoing services to achieve or support a charity's aim. To be charitable, such arrangements must be incidental to carrying out the aims. For further guidance on this see section F12 of *Charities and Public Benefit*.

A typical example of such an incidental private benefit might be offering admission to a school on reduced fees to children of staff to ensure they can attract suitably qualified or excellent teachers.

Other examples of private benefit might not be incidental.

For example, offering admission to a school on preferential terms to the children of the school's governors is unlikely to be an incidental private benefit.

If the real aim of an organisation is to create private benefits, it cannot be a charity for the public benefit.

For example, a privately housed art collection to which the public is allowed access only twice a year would be deemed to exist primarily for the benefit of the owner.

Benefits to commercial organisations

Educational establishments set up as commercial businesses with the aim of providing a profit for their owner(s) are not capable of having aims for the public benefit, as the private benefit to the owners is not incidental. And, while educational establishments set up by an employer to train its employees in the skills it needs and the company ethos will benefit both the employees and their employer, the wider public benefit would be insufficient. If the establishment offers skills training that is of wider application, and offers the opportunity to attend to a wider section of the public than just its employees, it might be capable of being a charity.

Private benefits to artists and writers and others with pre-eminent skills

Teaching and training artists, writers or others with pre-eminent skills, such as musicians or architects, to enable them to produce works of a high standard, is capable of being a way of advancing education. The fact that those individuals might be professionals is not an issue, as long as the purpose of the teaching and training is to benefit the public at large by producing better musicians or architects, so that the public at large can receive, in those cases, the aesthetic benefits of excellent music or a beautiful building.

A charity set up to train architects in building well-designed and carbon-neutral public buildings would benefit the public at large. So, too, would a charity which trained town planners in different models and approaches to planning towns and cities.

However, an organisation that is set up to promote the work of a living artist or philosopher, for example, will inevitably benefit that artist or philosopher by increasing the value of their work or the fees that they can command. The organisation must demonstrate, with evidence, such as criteria limiting the profit for the artist or philosopher and independent measures of the educational value, how the personal benefit is only incidental.

For example, two published social commentators want to establish a charity undertaking research in a particular field, making their texts available through the charity's website. Agreeing that profits from these web sales would be paid over to the charity might be one way of showing that the personal benefit is incidental.

Research bodies

If an organisation carries out research with the aim of benefiting a particular commercial concern that will use any learning in order to increase its own profits, the private benefit to that commercial concern will not be incidental.

If, however, a charity undertook research and, to obtain the funds to develop the research results into a useful product, went into partnership with a commercial company, then the private benefit to the commercial company might be incidental. This would be dependent on sufficient safeguards being put in place to limit those private benefits, and on publishing the useful results of that research so that the public at large can benefit.

F. Reporting on public benefit

This section is supplementary public benefit guidance which forms part of our statutory guidance on public benefit.

F1. Trustees' duties to report on public benefit

L 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 our 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 is 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; we 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.

Examples and statistics: 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 education was advanced by providing the benefits.

Grant-making to other organisations: 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.

PTAs for charitable independent schools: parent teacher associations for charitable independent schools are required only to show how their charity meets the public benefit requirement. Trustees of PTAs are not required to establish whether the school to which they are linked complies with the public benefit requirement. This would be for the trustees of the school to address.

G. Assessing public benefit

G1. How will we assess the public benefit of charities whose aims include advancing education?

We will assess whether the aims of all organisations applying to register as a charity are for the public benefit and whether charities that are already registered meet the public benefit requirement. We will do this by carrying out research studies on the extent to which different types of charity are meeting the public benefit requirement and by working with representative professional and umbrella bodies and with users of those charities.

Detailed assessments of individual organisations: in some cases we might need to carry out detailed assessments of individual charities. In those cases, we will ask each individual organisation to demonstrate that its aims, and what it is doing to carry out those aims, will be for the public benefit. Where appropriate, we will work with umbrella and national bodies to help assist their members in this.

Where changes are needed: it may be that in some cases, changes will have to be made to an organisation to enable it to meet the public benefit requirement. Where that needs to happen, we will advise the trustees on why we consider it does not meet the public benefit requirement, and give clear reasons and advice on what happens next where it is not possible for the organisation to meet the requirement.

No charity will be expected to make changes overnight and we will take reasonable account of how much time and resources might be needed by a charity that needs to make changes in order to meet the requirement.

Breach of trust: a breach of trust can arise where trustees act outside their duties or powers, including using their charity's property and other resources for something that falls outside the charity's aims. If we think that trustees might, inadvertently or otherwise, be acting in breach of trust we will ask the trustees to change the way in which they are carrying out their charity's aims in order to meet the public benefit requirement. Therefore, in this guidance, where we indicate that trustees might be asked, in certain circumstances, to show a link between the activities and their charity's aims, or to explain why they are carrying out their charity's aims in a particular way, this might be required either to show that they are carrying out their charity's aims for the public benefit or to show that they are not acting in breach of trust.

Disagreeing with our decisions: where we make a public benefit decision which affects whether a charity remains as a charity, or on whether the way in which it operates is for the public benefit, the charity, or anyone affected by our decision, who disagrees with the regulatory action that we take, can seek a review of that decision by using our internal decision review procedures. If they consider it necessary, they can make a further appeal to the Charity Tribunal or to the Courts.

However, by working constructively with charity trustees and undertaking extensive public consultation on our public benefit guidance we anticipate that such circumstances would be rare.

For further detail see section H of *Charities and Public Benefit*.

Annex A: Examples of ways in which charities might advance education

The following are examples of ways in which charities might advance education for the public benefit. This is not a definitive list:

The ways in which education can be advanced include:

- formally in institutions and informally in community groups;
- in highly structured formats or, conversely, with very little formal process;
- by making materials, or objects capable of educating, available to the public, such as in libraries or on databases.

Providing services in the form of:

- running a school;
- providing online education via the web or other new media, publications, television or radio programmes;
- running classes in particular subjects for those who are retired;
- providing after-school clubs in specific subjects;
- providing a school breakfast club for students;
- lessons, seminars, conferences and lectures;
- visits to the theatre and other arts facilities;
- motivational learning;
- teaching illiterate or innumerate adults to read, write or understand maths;
- providing school books, either domestically or overseas;
- works of art, or of historic or scientific interest, displayed for people to see.

Providing support in the form of:

- mentoring and coaching;
- supporting a school overseas, including building or maintaining schools and supporting teacher training for schools overseas;
- employing youth workers to promote social inclusion and increase attendance at the local school;
- helping children with a learning difficulty, such as dyslexia, to enable them to be taught in mainstream classes if they wish;
- providing student welfare or student accommodation;
- supporting parents to engage more with their children's education or encouraging greater parental involvement;
- providing support for students with behavioural problems.

The following are examples of ways in which charities might advance education for the public benefit. This is not a definitive list:

Promoting knowledge and raising standards in the form of:

- undertaking academic research and publishing the results online;
- publishing articles in journals which are peer-reviewed;
- maintaining an academic library with access for academics and students;
- independent accreditation of courses or course providers;
- setting exam and qualification standards;
- marking examinations;
- research which is made generally available, including publishing the useful results of that research;
- running courses for local teachers who want to improve their teaching skills.

Grants of money in the form of:

- funding individual students' education or providing bursary funding;
- endowing a Chair at a university or a department at a school;
- making grants available to students for books, computers or school uniforms.

Annex B: What are the aims of a school?

What is a 'school'?

Usually, in England and Wales, a 'school' is thought of as an establishment that provides formal primary or secondary education to children. But not all educational establishments are called 'schools', for example some are called 'academies', and many provide education to young people or adults. In this Annex, we have used the term 'school', but it might also be read as including other similar educational establishments.

Broadly, the role of a school in England and Wales is to provide pupils with a range of educational opportunities within which they can fully realise their individual potential (over the range of aspects envisaged by the curriculum requirements of the Education Acts).

But advancing education can be much broader than that and, in current social and economic circumstances, we recognise that many people have a much broader view of the role of a school within a community.

For example, a school:

- might be one that focuses solely or predominantly on the provision of formal classroom education for children; or
- might be one that provides a broader range of educational opportunities within, or for, the wider community, such as providing pre-school or adult education; or
- might be one that regards itself as an educational establishment which also extends into the local community in which it is situated as part of the broader educational process. For example, where pupils, as part of their education fitting them for life in the community, learn about the community (its history and its concerns) and make contributions to the community through volunteering.

It is not our role to be prescriptive about what the aims of schools in general, or an individual school in particular, are, or should be. That is a matter for an individual school's trustees or governors, having regard to the school's existing aims and the way in which it operates in current social and economic circumstances.

What is the importance of a school's aim?

L The way in which a school expresses its aims is essential when considering its public benefit because, as is the case for any charitable organisation:

- each of a charity's aims must be for the public benefit;
- only benefits that arise from carrying out those aims can be taken into consideration; and
- the beneficiaries must be appropriate to the aims.

In addition, in the case of a school that charges high fees for the education it provides, the aims are also important because the trustees must ensure there are sufficient opportunities for people who cannot afford the fees to benefit in a material way that is related to the charity's aims.

Since the aims of a school can vary considerably from school to school, it is not implicit from an aim that simply refers to the running of a school what that aim includes. The way in which a school expresses its aims is a key part of interpreting what the aims of the school are in current social and economic circumstances and in light of background information relating to the school. Whatever the aims of an individual school, it is important that they are clearly expressed in its objects clause, as this will affect how we assess its public benefit.

Amending a school's objects

If the trustees or governors of a school think that its objects are too narrowly defined, and do not fully reflect the aims of the school, they should seek our advice on whether it is possible and appropriate for us to authorise a change.

Notes

This publication can also be accessed at the Charity Commission's website: www.charitycommission.gov.uk

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PO Box 1227

Liverpool

L69 3UG

Website: **www.charitycommission.gov.uk**