

The Prevention or Relief of Poverty 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.

Contents

A. Foreword	3
B. Introduction	4
C. The prevention or relief of poverty	8
D. Public benefit - Principle 1: There must be an identifiable benefit or benefits (supplementary public benefit guidance)	13
E. Public Benefit - Principle 2: Benefit must be to the public or a section of the public (supplementary public benefit guidance)	15
F. Reporting on public benefit (supplementary public benefit guidance)	18
G. Assessing public benefit	19
Annex A: Examples of ways in which charities might prevent or relieve poverty	20

Guidance from the Charity Commission about the prevention or relief of poverty. This includes supplementary public benefit guidance for charities whose aims include preventing or relieving poverty.

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 preventing or relieving poverty.

Dear Reader,

Relieving the poor and needy in society has long been a charitable activity. Ask any member of the public what comes to mind when they think of what is charitable, and more often than not the first thing that they will mention is helping the poor. The courts have recognised that the relief of poverty is so important that even helping a relatively small number of poor people has been considered to be for the public benefit.

What is regarded as poverty, and the ways in which it might be relieved, has changed significantly over the years. Charities in this field have often been innovative in responding to changing social and economic conditions. Many domestic and international charities preventing or relieving poverty are tackling the root causes of poverty and its consequences, and are equipping people with the skills, knowledge and resources that they need to lift themselves out of poverty.

Poverty is a relative concept. What constitutes poverty in an affluent western society is very different in absolute terms from poverty in a developing country. It is clear that the public places a great deal of importance and value on the work of poverty charities in both a domestic and an international context. So, at first glance, the public benefit of any charity concerned with preventing or relieving poverty might appear to be so obvious that the need for any further assessment appears unnecessary. However, following implementation of the Charities Act 2006, all charities need to demonstrate that their aims are for the public benefit. This guidance explains to charities whose aims include preventing or relieving poverty what this means for them.



Dame Suzi Leather
Chair

Andrew Hind
Chief Executive

B. Introduction

B1. What is this guidance about?

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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 preventing or relieving poverty.

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 preventing or relieving poverty must therefore have regard to this.

This guidance also explains the meaning of the prevention or relief of poverty.

B2. What is the 'public benefit requirement'?

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'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?

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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 prevention or relief of poverty.

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 preventing or relieving poverty.

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 preventing or relieving poverty.

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 prevent or relieve poverty.

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?



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 prevention or relief of poverty is available?

The legal underpinning for this guidance is set out in our *Analysis of the law underpinning The Prevention or Relief of Poverty for the Public Benefit*.

Our *Example Trustees' Annual Reports and Accounts* includes an example of how a charity preventing or relieving poverty might report on its public benefit. We shall be adding to these examples in the future.

Many charities are concerned with preventing or relieving poverty in a specific context, such as relieving unemployment or an urban or rural regeneration project. Charities operating in those areas might also be interested in our separate publications, which are not part of our public benefit guidance, on *Promotion of Urban and Rural Regeneration* (RR2) and *Charities for the Relief of Unemployment* (RR3).

It is also common for poverty to be relieved by the provision of low-cost housing. For charities providing low-cost housing, we have issued joint guidance with HM Revenue and Customs and the Housing Corporation, entitled *Affordable Home Ownership and Taxation Liability*.

Charities that are also involved with the promotion of social inclusion might also be interested in our separate guidance *The Promotion of Social Inclusion*.

All this guidance is available on, or from, our website.

B9. Previous guidance

This publication replaces previous guidance contained in *Charities for the Relief of Financial Hardship* (CC4).

C. The prevention or relief of poverty

C1. What does the prevention or relief of 'poverty' mean?

In the past, the courts have always defined 'poverty' by reference to financial hardship or lack of material things but, in current social and economic circumstances, poverty includes many disadvantages and difficulties arising from, or which cause, the lack of financial or material resources.

There can be no absolute definition of what 'poverty' might mean since the problems giving rise to poverty are multi-dimensional and cumulative. It can affect individuals and whole communities. It might be experienced on a long or short-term basis.

Poverty can both create, and be created by, adverse social conditions, such as poor health and nutrition, and low achievement in education and other areas of human development. Charities operating in this area often express concerns about the voicelessness, vulnerability, fear and powerlessness experienced by people in poverty and the fact that people in poverty can become excluded from the opportunities, goods and services necessary for them to live a decent life in modern society. Charities preventing or relieving poverty can, additionally, provide a very valuable platform for promoting and protecting the interests of people in poverty.

The meaning of 'poverty' has to be considered in the context of an organisation's aims, whom the aims are intended to benefit, and where the organisation carries out its aims.

For example, for a charity carrying out its aims in the poorest areas in developing countries, 'people in poverty' might typically mean people who lack even the most basic essentials to sustain life, such as adequate clean water, food and shelter.

For a charity carrying out its aims in England and Wales, 'people in poverty' might typically mean households living on less than 60% of median income who go short in some unacceptable way. This includes those people who, despite working, might still fall into this category and people may qualify for assistance from a poverty charity whether or not they are eligible for state benefits.

The prevention or relief of poverty is not just about giving financial assistance to people who lack money; poverty is a more complex issue that is dependent upon the social and economic circumstances in which it arises. We recognise that many charities that are concerned with preventing or relieving poverty will do so by addressing both the causes (prevention) and the consequences (relief) of poverty.

People in poverty: throughout this guidance we have used the term 'people in poverty' to describe 'the poor'. 'People in poverty' does not just include people who are destitute, but also those who cannot satisfy a basic need without assistance. The courts have avoided setting any absolute criteria to be met in order for poverty to be said to exist, although they have been prepared to state in specific cases whether or not a particular level of income or assets meant that a person was 'poor'. In essence, 'people in poverty' generally refers to people who lack something in the nature of a necessity, or quasi-necessity, which the majority of the population would regard as necessary for a modest, but adequate, standard of living.

Financial hardship: we recognise that poverty and financial hardship can be, but are not necessarily, the same. All people who are poor are in financial hardship and, in many cases, the term 'financial hardship' has been used interchangeably with the term 'poverty' as meaning the same thing. Where that is the case then this guidance also applies to charities concerned with the relief of those in need by reason of financial hardship.

Not everyone who is in financial hardship is necessarily poor, but it may still be charitable to relieve their financial hardship.

For example, an elderly person who owns their own house might be 'asset rich', but has insufficient income to meet the costs of a heating bill during the winter and so might experience temporary financial hardship.

Similarly, someone might suffer a temporary period of financial hardship due to a sudden change in circumstances (such as redundancy, illness, an accident, or a death in the family).

In most cases, we will treat the relief of poverty and the relief of financial hardship the same. Generally speaking, it is likely to be charitable to relieve either the poverty or the financial hardship of anyone who does not have the resources to provide themselves, either on a short or long-term basis, with the normal things of life which most people take for granted.

However, it would not be within a charity's prevention or relief of poverty aims to provide financial assistance to someone who is neither poor nor in financial hardship, nor at risk of either. It may be open to the charity to address other charitable needs of such people where that is within its aims and it is appropriate for it to do so.

Poverty charities addressing other needs: we recognise that there is often a significant degree of overlap between preventing or relieving poverty and advancing other charitable aims. Many charities concerned with the prevention or relief of poverty, or the relief of people in financial hardship, are also concerned with relieving other needs, such as needs associated with ethnicity, geography, gender, age, disability, educational and skills attainment.

For example, a charity may be specifically concerned with relieving poverty and other needs associated with old age, or ill health or disability.

This guidance is relevant to the prevention or relief of poverty aims of those charities.

C2. When is the prevention of poverty distinct from the relief of poverty?

We think it would be unhelpful to regard preventing poverty as necessarily separate from relieving poverty; they are just different points along a continuum of financial need.

In our *Commentary on the Descriptions of Charitable Purposes in the Charities Act* we recognise that the prevention of poverty includes preventing those who are poor from becoming poorer, and preventing people who are not poor from becoming poor. There is a fine distinction between helping someone who is already in poverty and assisting someone so that they do not become poor. Therefore, in general, we consider that the prevention of poverty includes the relief of poverty, and that the relief of poverty includes the prevention of poverty.

However, the Charities Act recognises the prevention of poverty as a freestanding purpose and so charities may be set up solely for the prevention of poverty. Charities set up only for the prevention of poverty tend to take a very specific approach to poverty, which usually involves tackling its root causes.

The relief of poverty has long been recognised as a charitable purpose and many charities set up prior to the Charities Act will have aims for the relief of poverty, with no mention of the prevention of poverty. However, we have long accepted that charities concerned with the relief of poverty can also prevent poverty. It is not therefore necessary for charities for the relief of poverty to extend their objects to refer specifically to the prevention of poverty, but it is open to them to do so if that is appropriate.

C3. Given the relativity of poverty, how would we expect charities to select their beneficiaries?

In order to benefit from a charity whose aims include preventing or relieving poverty, a person, or a community, should be:

- in poverty; or
- at risk of being in poverty.

We consider this is the proper test for trustees to apply in assessing whether an individual or a community is an appropriate beneficiary for a prevention or relief of poverty charity.

Criteria for selecting and assisting beneficiaries: trustees should have appropriate criteria in place to guide them in selecting their beneficiaries and to ensure that assistance given to individuals is no more than that actually required to relieve their need.

Benefits to individuals: for it to be a proper use of charitable resources, the amount applied to prevent a person from becoming poor should be reasonable having regard to the circumstances of the case. The relief of poverty is limited to providing those resources necessary to meet a person's need. In deciding what assistance to offer, charity trustees should consider what unmet needs, ie lack of something necessary or something which everyone takes for granted, the person has, and the practicability of them meeting those needs from their own resources.

Where trustees wish to take action to prevent individuals from becoming poor, they should take care to ensure that beneficiaries are at actual risk of becoming poor (or, in the case of people who are already poor, poorer) and are unable to avoid this using their own resources.

Benefits to communities: we recognise that the relief of poverty can cover measures to address the needs of a deprived community, for example by the provision of facilities. By this we mean a group of people who share a position of social and economic disadvantage, either by virtue of living in the same geographical area, or because they have something else in common (such as a disability). In that case, it is not absolutely necessary that all people using those facilities are people in poverty, as long as most are. Even though this might benefit some people who are not in poverty, we would see this as legitimately incidental to advancing the charity's aim of relieving the poverty of the community in question.

C4. Ways of preventing or relieving poverty

There are a variety of ways in which charities can prevent or relieve poverty. These may range from wide-ranging programmes (such as research, education and healthcare projects directed towards alleviating social conditions that can lead to, or can be caused by poverty) to providing direct financial assistance to individuals or communities in the form of grants and items to meet specific needs.

If the charity's aims are expressed in general terms then any, or all, of these options might be open to the trustees. However, some governing documents are specific about the ways in which the charity will prevent or relieve poverty. If trustees are in any doubt as to whether something they wish to carry out is permitted by their charity's objects, we suggest that they contact us for advice.

Examples of ways in which charities might prevent or relieve poverty can be found in **Annex A**.

C5. Is it charitable to relieve financial disadvantage?

Although people who are in financial hardship or in poverty are clearly at a financial disadvantage, simply being 'financially disadvantaged' does not necessarily mean that the person is in financial hardship or in poverty.

Anyone who compares themselves with someone who has more money than they do could consider themselves to be 'financially disadvantaged'.

The relief of 'financial disadvantage' is not, therefore, a charitable aim.

C6. Can the prevention or relief of poverty also include the relief of social disadvantage?

People in poverty might be socially as well as financially disadvantaged, and so it is reasonable for charities whose aims include preventing or relieving poverty to also address social disadvantage.

For example, because so much information is now made available online, people who cannot afford to have regular access to the internet might be at a social disadvantage. A charity whose aims include preventing or relieving poverty might therefore wish to address that social disadvantage, which can be both a cause and a consequence of poverty, by providing free or low-cost internet access to people in an area of social deprivation.

However, the prevention or relief of poverty would not include the relief of social disadvantage alone, which does not arise from poverty.

For example, it would not include the relief of the social problems of rich, emotionally deprived young people.

Of course, these issues might be addressed under other charitable aims, but they would not be an aspect of the prevention or relief of poverty.

C7. What should charities preventing or relieving poverty consider when drafting what they do as a charitable aim?

L 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 preventing or relieving poverty, it should be clear exactly whom the organisation's aims are intended to benefit and how.

Charities do not have to specify in their objects clause the various ways in which they will prevent or relieve poverty. However, some may wish to do so, particularly those that are concerned with tackling issues that are known to cause poverty.

Sometimes the objects will be simply descriptive of the charity's activities.

For example, the objects might be expressed as *"the prevention or relief of poverty by the provision of, and training in, sustainable agricultural methods and agricultural equipment for people in need in developing countries."*

Sometimes, some of the ways in which a charity wishes to prevent or relieve poverty are also charitable aims in their own right, such as conservation of the environment, or promoting human rights, or advancing education.

For example, a charity working internationally to prevent poverty by addressing adverse environmental factors which can cause drought, or cause crops to fail, might wish to express its aims as *"to prevent or relieve poverty by conducting research on methods of mitigating the effects of drought and land erosion and promoting sustainable management, use and conservation of natural resources."*

Where that is the case, the charity's trustees should ensure that they are acting in accordance with any guidance we have produced in respect of those other charitable aims.

For example, our guidance on the promotion of human rights would apply to a charity for the prevention or relief of poverty which tries to achieve this by addressing human rights issues, in the same way that it applies to a charity with the promotion of human rights as its charitable aim.

Whether or not a charity chooses to list in its objects clause the various ways by which it will prevent or relieve poverty, in all cases the charity must be able to demonstrate a clear link between what it does, or proposes to do, and the resulting effect on preventing or relieving poverty. However, it is not necessary for the link to be explicitly stated in its objects clause.

The following are some examples of ways in which charities whose aims include preventing or relieving poverty might express those aims in their objects clause. This is not a definitive list:

- *"The prevention or relief of poverty in [insert geographical area of operation] by providing grants, items and services to individuals in need and/or charities, or other organisations working to prevent or relieve poverty."*
- *"To relieve poverty [or financial hardship] among refugees, asylum seekers, migrant workers and their dependants living in [insert geographical area] by providing interpreting/translating/advocacy/ health/housing advice and education."*
- *"The prevention or relief of poverty [or financial hardship] anywhere in the world by providing or assisting in the provision of education, training, healthcare projects and all the necessary support designed to enable individuals to generate a sustainable income and be self-sufficient."*
- *"To prevent or relieve poverty through undertaking and supporting research into factors that contribute to poverty and the most appropriate ways to mitigate these."*
- *"To prevent or relieve poverty by awarding a 'fair trade mark' to products, the sale of which relieves the poverty of producers by ensuring they receive at least a fair price for their goods and advising such producers of the best ways in which to engage in the trading process."*
- *"To relieve the poverty of young people by the provision of grants to enable them to participate in healthy recreational activities that they could not otherwise afford."*

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.

C8. Can charities have aims that are political?

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There are some charitable aims (such as the promotion of human rights) which are more likely than others to lead trustees to want to engage in campaigning and political activity. The prevention of poverty might well be one of the charitable aims that gives considerable opportunity for political activity. Indeed, there are some who argue that preventing poverty is inherently a political purpose. We are not persuaded by this. The notion that poverty is caused, or perpetuated, solely by government policy (and hence can only be prevented by changing government policy) is contentious. Moreover, it is clear that efforts to prevent poverty might take a wide range of forms, such as pursuing improvements in agriculture or agricultural practice, increasing economic activity, making education more widely available and securing better healthcare.

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 prevention or relief of poverty 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 preventing or relieving poverty 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.)

In most cases this should be straightforward as the benefits flowing from the prevention and/or relief of poverty are usually clear. In the majority of cases it will be very simple to establish that a charity for the relief of poverty has an identifiable benefit; people who would otherwise lack a basic necessity will be provided with it.

For example, a grant-making charity could show how many people in poverty have been given a grant, or a charity that provides low-cost housing could show how many people in housing need have been provided with accommodation. An international charity could show how many communities that needed improved water supplies, sanitation, healthcare and education have benefited through the provision of these facilities.

The benefits of the prevention of poverty might not always be so clear, such as where the link between what the organisation does and its effect on the prevention of poverty might not be apparent. In that case, the organisation concerned must be able to show that the way in which it carries out, or proposes to carry out, its aims is capable of preventing or relieving a person's poverty.

For example, a charity shows that by ensuring producers receive a fair price for their goods they are able to lift themselves and their families out of poverty.

Some charities might also be concerned with preventing or relieving poverty by addressing wider social conditions.

The following are examples of benefits which might flow from this sort of activity:

- a reduction in crime and anti-social behaviour due to a reduction in poverty as a result of a training and employment project for young offenders, or others from disadvantaged backgrounds who are in danger of offending;
- benefits to the environment flowing from promoting sustainable development as a means of relieving poverty as a result of training people in developing countries in the best techniques for sustainable and environmentally friendly food production;
- the promotion of compassion and altruism as a result of a media campaign to raise public awareness and funds for a community where traditional sources of employment have been affected by climate change to enable the community to retrain and establish new methods of employment;
- a healthier community (in both physical and mental health), through providing medicines to people with HIV and Aids, helping them to maintain a level of health that enables them to work or continue working.

D3. 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?



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

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

The prevention or relief of poverty, for so long regarded as an inherently 'good thing', so rarely raises issues of detriment or harm that it can be difficult to contemplate any circumstances in which it is not for the public benefit.

There are some people who argue that the reason for a person's poverty or financial hardship may have a bearing on whether relieving their poverty has a detrimental or harmful effect.

For example, some people consider that providing a soup kitchen for people in poverty can encourage them to become dependent on the soup kitchen, rather than encouraging them to take responsibility for feeding themselves, and that this can simply perpetuate the problem. However, others consider that feeding people who do not, or cannot, take this responsibility is an important way of relieving their needs.

We do not think that the reason for a person's poverty is a relevant factor in assessing whether there is detriment or harm from an organisation preventing or relieving poverty. We think that it is a characteristic of a civilised society that certain basic needs are met; the issue is whether people lack the basic things in life, rather than why they lack them.

Likewise, we consider that it is proper for a charity to relieve the poverty of asylum seekers or other persons who, for whatever reason, are denied welfare benefits by law. While there might be public policy reasons why such people are not permitted access to welfare benefits, we think that it is permissible for charities to assist those people who are destitute or in need due to financial hardship.

We do not consider that such cases give rise to any public harm that might influence whether an organisation is relieving poverty for public benefit.

However, there might be circumstances in which there are public harm issues to consider and where there is evidence of such harm we would weigh this against the benefits that also arise from the charity's work.

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 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 these questions. It sets out some key things for trustees of charities whose aims include preventing or relieving poverty 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.)

For charities concerned with relieving poverty there will be a rational link between the beneficiaries and the aims, as the beneficiaries will need to be in poverty, or at actual risk of being in poverty, in order to be eligible to benefit.

Of course, the people who benefit from a charity will depend upon the type of poverty charity in question. Some poverty charities will be quite small, whereas others will be large, multi-million pound organisations. Some work locally; some work globally.

For charities concerned with relieving the poverty of people who are particularly vulnerable and who have a particular need this will usually be expressed in the charity's objects.

For example:

The objects of a charity concerned with relieving poverty associated with childhood might be:

"To relieve the poverty of babies and children living in Uganda in particular but not exclusively by providing health screening, developmental checks and medical care."

The objects of a charity concerned with relieving poverty associated with old age might be:

"To relieve financial hardship among elderly people in particular but not exclusively by providing elderly people who could otherwise not afford a repair to their home with a handyman maintenance service delivering low-cost home repairs."

The objects of a charity concerned with relieving poverty associated with disability might be:

"To relieve poverty among unemployed disabled people in developing countries in particular but not exclusively by providing education, training and micro finance schemes to enable them to set up their own businesses, in order to generate a sustainable income sufficient to meet their needs."

The charity's method of establishing the links between their beneficiaries and their aims should be explained. This will usually be by reference to stated objective criteria enabling the trustees to assess the needs of their potential beneficiaries and rank them in order of need.

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?



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

The general position: generally, to be a sufficient section of the public, the class of beneficiaries a charity's aims intend to benefit must have a public character. However, what is a sufficient section of the public for one charitable aim is not necessarily a sufficient section for a different charitable aim.

A general principle expressed in *Charities and Public Benefit* is that any restrictions on who may benefit must be legitimate, proportionate, rational and justifiable given the nature of the organisation's charitable aims.

Defining beneficiaries by reference to personal connection: beneficiaries cannot usually be defined by reference to a personal connection. However, an exception has existed in charity law that has allowed charities for the relief of poverty to have a more narrowly restricted beneficiary class, including one that defines the beneficiaries by reference to a personal connection. The reason for this is that relieving poverty has been considered by the courts to be of such a public character that a more narrowly defined class of beneficiary could still be a sufficient section of the public.

The following are examples of different types of personal connection that have been held as being capable of defining beneficiaries of a charity for the relief of poverty:

- **Family connection:** where beneficiaries are defined by reference to membership of a particular family. These are sometimes known as 'family poverty trusts' or 'poor relations trusts'.
- **Employer connection:** where beneficiaries are defined by reference to employment with a named employer (such as an employee benevolent fund). (We intend to produce separate guidance for benevolent funds.)
- **Profession or common field of employment:** where beneficiaries are defined by reference to belonging to a particular profession or field of employment.
- **Membership of a club or society:** funds for the relief of poverty of members of a particular club or society.

Although these restrictions have been held to be capable of being accepted as a sufficient section of the public where the charitable aim is relieving poverty, that does not mean that every restriction of the beneficial class will now be acceptable. Even where all the beneficiaries have to be poor, there may be circumstances in which the restrictions on who can benefit are either so limited or irrational as to outweigh the normal public character of the relief of poverty.

For example, the relief of poverty of people who have attended a specific school during a specific time and were members of the school's rugby team. This is unlikely to be considered a sufficient section of the public, even for the relief of poverty. Since, even if it can be shown there are a lot of them, unless there was clear evidence that such people had a predisposition to being poor by virtue of their having those characteristics, there is no clear, rational link between the restrictions and the charitable aim.

However, the relief of poverty of families living in an area of social deprivation who care for vulnerable or dependent elderly relatives, or children with learning difficulties, would be considered a sufficient section of the public. This is because there is likely to be a connection between the restrictions based on the social and economic circumstances of the beneficiaries, and poverty.

Charities for the prevention of poverty only: the more restricted beneficial class, which can be sufficient in certain circumstances for the relief of poverty, may not be sufficient for the prevention of poverty. However, where a charity has only the prevention of poverty as a distinct aim, the beneficial class for such a charity is likely to be very broad. Preventing poverty is likely to involve addressing practices and issues within society which might have a very wide impact - for example, pursuing improvements in agricultural practices in order to address rural poverty. But it would not be appropriate to restrict the beneficial class for this aim in an artificial way, such as farmers from a particular family.

An organisation which has only the prevention of poverty as a charitable aim and which has a very narrowly defined beneficiary class, such as a family or employer connection, might have difficulties in demonstrating that its aims are for the public benefit.

Charities for the prevention and relief of poverty: in the case of a joint aim for the prevention and relief of poverty, prevention might be difficult to distinguish from relief in many cases involving assistance to an individual. We accept there might be circumstances in which the more restricted beneficial class that was sometimes permitted for the relief of poverty, might also be accepted for a charity with the joint aim of preventing and relieving poverty.

Restricting beneficiaries on the basis of trustee discretion: in some cases, the trustees of a particular organisation might wish to restrict the benefits to a particular group of people purely on the basis of the exercise of their discretion. Founders and trustees might have some discretion in deciding who to benefit. Where the exercise of that discretion is allowable within the charity's stated objects, and where the people who will have the opportunity to benefit constitute a 'section of the public', then such a restriction might be reasonable. In exercising their discretion, in line with general trustee duties, the trustees should act honestly, reasonably and rationally.

Trustees continue to have full discretion to select their beneficiaries in accordance with the terms of their governing document but they should not seek to limit their ability to further the aims of the charity.

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?



(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 preventing or relieving poverty, 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 preventing or relieving poverty.

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 charity's aims or happen as a necessary consequence of carrying out the aims. For further guidance on this see section F12 of *Charities and Public Benefit*.

For example, a 'private' benefit could be considered to arise if the funds for the relief of poverty are used to provide payments to members of a donor's family or to his or her employees.

Non-financial benefits: although private benefits are often financial, they can take other forms, such as using or occupying a charity's property at a reduced rate.

For example, some sheltered housing charities provide on-site, rent-free property for their wardens. In this case, providing the wardens with on-site accommodation is necessary to enable the charity to carry out its aims and so the benefit to the wardens would be an incidental private benefit.

Payments to trustees: there are specific issues a charity needs to address before it can provide private benefits to trustees; see our separate guidance *Trustee expenses and payments* (CC11).

Benefits that more than meet a need: it is generally the case that, when considering public benefit, we are not concerned with the 'private' benefits to individuals who are the charity's beneficiaries. This is because such 'private' benefits are a necessary result of, and are incidental to, carrying out the charity's aims. However, in the case of charities whose aims include preventing or relieving poverty, the over-provision of benefit to individuals, giving significantly more than is required to meet the basic needs of the individual (at the extreme, making someone who is poor into a millionaire, for example) would affect public benefit.

Charities for the prevention or relief of poverty need to use rational criteria when determining the level of the benefit they will give. Trustees must ensure the level of the benefit is not significantly more than is needed. Otherwise the benefit will become a private one that does not further the charity's aim. This would not meet the public benefit requirement.

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



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 poverty was prevented and/or relieved 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.

G. Assessing public benefit

G1. How will we assess the public benefit of charities whose aims include preventing or relieving poverty?

We will assess whether the aims of all organisations applying to register as charities 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 them 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 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 prevent or relieve poverty

Examples of ways in which charities might prevent or relieve poverty include:

- providing debt or money management advice;
- awarding a 'fair trade mark' to products, the sale of which is intended to relieve the poverty of producers by ensuring they receive a fair price for their goods;
- advising such producers of the best ways in which to engage in the trading process;
- advising poor farmers in developing countries about more effective farming techniques;
- providing legal advice and/or support on land tenure and ownership issues to widows in countries where women's rights are restricted;
- working with women's groups who are concerned about a lack of equitable conditions for women workers;
- providing emergency aid in the wake of a natural disaster to people who are at imminent risk of becoming poor because of the loss of their home, possessions, crops or business;
- providing money management and debt counselling advice and training to someone at actual risk of being in poverty;
- establishing a micro-credit scheme or schemes (ie a scheme for making small loans to poor borrowers and providing other forms of assistance such as skills training) in an area of particular deprivation in a developing country;
- providing a grant to a local business so that they can give a job to an unemployed person (and so relieve their poverty);
- helping people gain access to safe water and sanitation and contributing to helping the world's poorest people gain access to these basic requirements;
- sending essential food supplies, cooking sets and bedding, to help people in a state of poverty as a result of an emergency;
- sending tools and materials to help people hit by an emergency situation build shelter for their families;
- donations to other charities accommodating those in need in the area of the charity, such as almshouses, homes or hostels for the old, infirm, or homeless; and
- the provision of basic supplies, such as children's clothes and shoes, books and other personal or educational supplies to help families, children and schools throughout the world that are unable to afford them.

Examples of ways in which charities might relieve poverty include:

Grants of money in the form of:

- weekly allowances for a limited period;
- payments to meet a particular need;
- one-off payments in a crisis or disaster;
- payment of travelling expenses for visiting people, for example in a hospital, convalescent home, children's home, prison or other similar place, particularly where more frequent visits are desirable than payments from public funds will allow;
- payments to meet expenses associated with visiting people (as mentioned above) for example, child-minding, accommodation, refreshments etc;
- payments to assist in meeting energy and water bills.

The provision of items (either outright or, if expensive but appropriate, on loan), such as:

- furniture, bedding, clothing, food, fuel, heating appliances;
- washing machines and fridges.

Payment for services, such as:

- essential house decorating;
- insulation and repairs;
- laundering;
- meals on wheels;
- outings and entertainment;
- child-minding;
- telephone line, rates and utilities.

The provision of facilities, such as:

- the supply of tools or books;
- payments of fees for instruction, examination, or other expenses connected with vocational training, language, literacy, numerical or technical skills;
- travelling expenses to help the recipients to earn their living; or
- equipment and funds for recreational pursuits or training intended to bring the quality of life of the beneficiaries to a reasonable standard.

Examples of ways in which charities might relieve poverty include:

Charities for the relief of financial hardship might give extra help to people in poverty who are also **sick, convalescent, infirm, or with disabilities**, whether physical or mental. This might include:

Grants of money in the form of:

- special payments to relieve sickness or infirmity;
- payment of travelling expenses on entering or leaving hospitals, convalescent homes, or similar institutions, or for out-patient consultations;
- payment towards the cost of adaptations to the homes of people with disabilities; or
- payment of telephone installation charges and rentals.

The provision of items, such as:

- food for special diets; or
- medical equipment, (such as wheelchairs) either outright or, if expensive but appropriate, on loan.

The provision of services, such as:

- exchange of library books;
- gardening;
- bathing, hair washing, shaving, foot care;
- help in the home;
- nursing aid, physiotherapy in the home;
- shopping;
- reading, sitting-in, audio tapes for the housebound; and
- travelling companions.

The provision of facilities, such as:

- arrangements for a period of rest or change of environment;
- treatment at convalescent homes or other institutions; or
- transport.

Other practical ways of assisting people in poverty

- a national helpline to direct people to the correct state benefit and to what benevolent funds might be available to them.

Making grants to other charities

As well as giving grants to individual people in poverty, or to organisations on behalf of those individual people, trustees can also make grants to other charities and organisations which offer help to people in poverty. In this case, however, trustees should take reasonable care to ensure that any donation will be passed on, in cash or kind, to persons who qualify as proper recipients of assistance from the donor charity.

On this basis, grants to almshouse charities, and other charities which cater exclusively for people in poverty, are permissible provided that the receiving charities operate in the same area of benefit as the donor charity.

Grants can be made by a charity for the relief of poverty to another charity even if that charity's aims and activities do not include the relief of poverty provided that the effect of the grant is to relieve poverty (the receiving charity would only be able to accept the grant if it also furthered its own aims).

Some local charities might cater only or mainly for people in poverty even though their aims might not be strictly confined to the relief of poverty.

For example, in a particularly deprived area most people attending a youth club or an old age pensioners' club might be in poverty, although membership of the club is not limited to people in poverty.

If trustees wish to give a general grant to another charity in such circumstances, they will need to find out whether, in practice, the charity's beneficiaries are people in poverty. If they are, then a grant might be permissible if its effect is likely to relieve poverty. Even if a few people who are not in poverty will also benefit, this will not prevent a grant if their benefit is merely incidental and unavoidable, and the bulk of the benefit is for people in poverty. Again, we suggest that trustees contact us for advice if they are in any doubt.

A grant could also be made to another charity having a variety of aims, one of which was for relief of poverty. In such a case, a grant could be made in support of that charity's work subject to the specific condition that it be used by that charity in relieving poverty.

Notes

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

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