



ACCOUNTING SERVICES FOR THE VOLUNTARY SECTOR

FACTSHEET NUMBER 2 - PUBLIC BENEFIT

1. What is 'public benefit'?

'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'.

2. Charitable purposes

'Charitable purposes' are those that fall within the descriptions of charitable purposes set out in the Charities Act and that are for the public benefit. New charitable purposes may be recognised in the future, by the Charity Commission or the Charity Tribunal or the courts, as charity law continues to develop. It is a requirement that a charity has aims that fall within, or are analogous to, these descriptions of charitable purposes.

The Charities Act sets out the following descriptions of charitable purposes:

- a) the prevention or relief of poverty;
- b) the advancement of education;
- c) the advancement of religion;
- d) the advancement of health or the saving of lives;
- e) the advancement of citizenship or community development;
- f) the advancement of the arts, culture, heritage or science;
- g) the advancement of amateur sport;
- h) the advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity;
- i) the advancement of environmental protection or improvement;
- j) the relief of those in need, by reason of youth, age, ill-health, disability, financial hardship or other disadvantage;
- k) the advancement of animal welfare;
- l) the promotion of the efficiency of the armed forces of the Crown, or of the efficiency of the police, fire and rescue services or ambulance services;
- m) other purposes currently recognised as charitable and any new charitable purposes which are similar to another charitable purpose.

3. What are the principles of public benefit?

There are two key principles both of which must be met in order to show that an organisation's aims are for the 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**
 - 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

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

The Charity Commission have stated that they will consider the principles of public benefit in the context of current social and economic conditions.

4. Charity trustees' public benefit duties

Charity trustees must:

- ensure that they carry out their charity's aims for the public benefit;
- have regard to guidance we publish on public benefit (when they exercise any powers or duties where that may be relevant); and
- report on their charity's public benefit in their Trustees' Annual Report.
- Charity trustees are not legally required to follow this guidance but they must have regard to it when it is relevant for their charity. That 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.

Guidance on the Charity Commission's assessment of public benefit, and the criteria they use for this, can be found on their website. Although their guidance does not constitute the law on public benefit, it is an important guide to what the law says on this topic and how they interpret and apply that law. Trustees, and their advisers, should therefore be familiar with, and understand, their guidance.

5. Reporting

Charity trustees have a duty to regularly report in their Trustees' Annual Report on how they are carrying out their charity's aims for the public benefit

Disclaimer

This factsheet is for general information only and is not intended to be advice to any specific charity. Professional advice should be taken in respect of individual circumstances. The checklist represents my understanding of charity and taxation law and practice as at December 2010, which is subject to change.