



Public benefit reporting

Independent schools

In this publication, you will find information on:

- Public Benefit disclosure
- Principles of Public Benefit
- Reporting Thresholds
- Independent schools

Many charities will be including their Public Benefit disclosures for the first time in their 2009 annual trustees' reports. Bianca Silva, Principal and Head of our Charity Sector team provides a useful explanation of the requirements.

Public Benefit disclosure

Accounting periods beginning 1 April 2008

All charities must now report annually on how the public benefit requirement has been met and confirm that they have had due regard to the Charity Commission guidance. Trustees are now legally required to provide:

1. A statement by Trustees confirming due regard to the guidance
2. Report on activities to further objectives for public benefit

A new statement is therefore required in the Trustees Report, for example:

Trustees' Statement - "The Trustees confirm that they have complied with the duty in Section 4 of the Charities Act 2006 to have due regard to the Charity Commission's general guidance

on public benefit".

Trustees' Report - "We have referred to the guidance in the Charity Commission's general guidance on Public Benefit when reviewing our aims and objectives and in planning our future activities. In particular, the Trustees consider how planned activities will contribute to the aims and objectives they have set".

Principles of Public Benefit

There are two principles of public benefit, with sub-rules relating to each one. It is important that all points are addressed in the report, whether or not they are relevant to your charity.

Principle 1: There must be an identifiable benefit or benefits

1a: It must be clear what the benefits are

What are the aims / activities and what are the benefits flowing from these? These should be identifiable and in some cases may require evidence to substantiate its worth.

1b: The benefits must be related to the aims

Benefits must be related to the charity's aims, so incidental benefits are not taken into account; where a charity has more than one aim, each of those aims must meet the public benefit requirement.

1c: Benefits must be balanced against any detriment or harm

Examples of detriment or harm could include environmental damage or damage to mental or physical health. Your report should address any issues and explain why the benefits outweigh any harm.

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

2a: The beneficiaries must be appropriate to the aims

If the benefit is to a 'section of the public' rather than the public generally, then any restrictions must be reasonable and relevant to the charity's aims. The actual number of beneficiaries can be small, so long as anyone who could qualify as a beneficiary is eligible to apply.

2b: Where benefit is to a section of the public, opportunity to benefit must not be unreasonably restricted.

This would include geographical or other restrictions (such as gender, race or religion) or by ability to pay any fees charged. Where the aim of the charity is more restricted, greater justification would be required by demonstrating a particular need; for example a charity supporting individuals affected by a specific disability.

2c: People in poverty must not be excluded from the opportunity to benefit.

Where fees are charged for services, those who could not afford to pay must be able to benefit in some material way, related to the charity's aims. This point particularly affects independent schools and care

home providers; where they may need to demonstrate work they do for the wider community, for example a private school working in partnership with a state school. The Charity Commission published supplementary guidance for charities that charge fees in December 2008. Please also find further information under the section independent schools.

2d: Any private benefits must be incidental.

Private benefits must be a necessary result or by-product of carrying out the charity's aims. That is not to say personal benefits are precluded, obviously some individuals benefit from charitable grants – the point is that the public benefit must outweigh any private benefits.

Reporting Thresholds

The level of detail required for reporting on the public benefit depends on the audit thresholds as follows:

Accounting periods ending on or after 1 April 2009

- Gross Income exceeds £500,000
- Or, £250,000 with the aggregate value of assets exceeding £3.26million.

Accounting periods ending on or after 1 April 2008

- Gross Income exceeds £500,000

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- Or, £100,000 with the aggregate value of assets exceeding £2.8million

For smaller charities, below the audit threshold, trustees are required to include a brief summary in their Trustees' Annual Report of the main activities undertaken in order to carry out the charity's aims for the public benefit.

For larger charities, above the audit threshold, trustees are required to 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.

The full Summary Guidance which Trustees should refer to can be downloaded from the Charity Commission website, as can examples of Trustees' reports which show compliance with these new public benefit reporting requirements. You will also find a useful checklist to refer to: www.charity-commission.gov.uk/publicbenefit

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In July 2009 the Charity Commission published their reports on the first five schools to be assessed on Public Benefit. Of the five, two passed and three were advised that they are not currently providing sufficient public benefit to justify their charitable status.

These assessments seem to have confirmed that the focus is primarily on the level of bursaries to demonstrate public benefit. Other measures, such as the use of schools facilities, working with state schools in the area or perhaps in developing countries for example, were deemed to provide some opportunity to benefit; but in the absence of some form of means-tested financial assistance were on their own insufficient.

When preparing your report, it is important to consider and address some of the key points we provide examples for below.

Bursary policy:

This should be clear in providing the total value, percentage of gross income and number of children who could benefit. The types of bursaries available should also be explained, such as full, means tested or as a percentage of total fees.

Of the schools that met the public benefit requirement, bursaries accounted for between 5 – 8% of their total income.

Scholarship policy:

This is an important benefit, but does not appear to have as much weight with the Commission in determining public benefit. However, places at the school offered based on academic achievement, special needs (including exceptional talent in a specific area), discounted rates for siblings or members of staff are all relevant.

Charitable activities:

The benefit to the wider community can also be demonstrated by highlighting the use of the school's facilities by other groups. This should detail the groups involved and any fees charged.

Other charitable activities can include working with other schools in the area (or perhaps internationally in a developing country), school trips in conjunction with other schools, events such as concerts or plays with other schools, specific lessons or staff exchanges.

Most schools promote personal development, so details of fundraising activities and encouraging students to do voluntary work help develop / engender a responsibility to the wider community, which will also be considered a public benefit.

The main consideration is that the benefit must be related to the charity's aims.

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Further Information

The Charity Commission has published its 'Emerging Findings' report with additional information for trustees about meeting the public benefit requirement. The report contains points of interest from the assessment process which will be of interest to all charities and can be found on their website: charity-commission.gov.uk

Organisations who fail to meet the criteria will have 3 months to confirm that they have considered the assessment and will put in place a plan to meet the requirements. Changes will not be expected to be implemented immediately but will need to demonstrate a credible timeline. The organisation will then have a further 9 months to submit a suitable plan to the Commission.

Independent Schools Assessed:

- Manchester Grammar School
- Manor House School
- Pangbourne College
- St Anselm's School
- Highfield Primary School

If at any point you would like further guidance or advice on this issue, please contact Rakesh Shaunak on 0207 429 4100, email rakesh.shaunak@mhllp.co.uk or Bianca Silva on 01494 441226, email bianca.silva@mhllp.co.uk.

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