

# CHARITY COMMISSION CONSULTATION ON DRAFT PUBLIC BENEFIT GUIDANCE



The Charity Commission has released a consultation document on their draft guidance on the public benefit requirement for charities. For over 400 years all charities have had to have charitable purposes which are for the public benefit. This is known as the public benefit requirement. Traditionally there has always been a presumption that charities relieving poverty or advancing education or religion benefit the public.

The Charities Act 2006 came into force on 8 November 2006 and reinforced this public benefit requirement. It removes the existing presumption of public benefit and means that charities such as independent schools will now need to demonstrate that their purposes benefit the public. The provisions in the Act relating to public benefit are expected to come into force in early 2008.

The consultation document states that there are four principles which show whether an organisation provides benefit to the public:

1. There must be an identifiable benefit
2. The benefit must be to the public, or to a section of the public
3. People on low incomes must be able to benefit
4. Any private benefit must be incidental

One benefit to society which is sometimes cited by independent schools is that it educates pupils who would otherwise have to be educated at public expense. The Charity Commission say that they will take this benefit into account with other sorts of benefits, but it would not be sufficient to prove public benefit alone.

The consultation document also proposes duties on charity trustees to report on how their charity meets the public benefit test. For charities with an annual income below £500,000 they propose asking the trustees to include a simple statement in their Trustees' Annual Report. For charities with an annual income above £500,000 they propose asking the trustees to provide a fuller explanation on how their charity meets the public benefit requirement. They give the example that a high fee-charging charity may quantify its public benefit by assessing and reporting the (financial, social or other) value of the benefits they provide, alongside the value of the tax breaks or other benefits they receive.

Suggested examples of where schools could improve the benefit they provide to the public are means tested bursaries - as opposed to academic scholarships; subsidised places; and the sharing of facilities and sports grounds with local state schools or communities.

Once the provisions come into force charity trustees will have to have regard to the Charity Commission guidance. The consultation closes on 6 June 2007. The Charity Commission will also be consulting with specific types of charity - which will include independent schools - on the effect of the principles of public benefit set out in the draft guidance.

Further information on the consultation and how you can get involved can be found at [www.charity-commission.gov.uk](http://www.charity-commission.gov.uk).