

Guidance

Public benefit: an overview

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Applies to England and Wales

Publication for Northern Ireland

(<https://www.charitycommissionni.org.uk/>)

Publication for Scotland

(<http://www.oscr.org.uk/>)

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Part 1: About this guide

This guide gives an overview of (but does not form part of) the Charity Commission's set of 3 public benefit guides.

About the commission's public benefit guides

The commission has written a set of 3 public benefit guides which explain public benefit in three different contexts.

This is because 'public benefit' is part of what it means:

- to be a charity
This includes having only charitable purposes which are for the public benefit. This 'public benefit requirement' is defined by the Charities Act 2011
The commission explains this in [Public benefit: the public benefit requirement \(/government/publications/public-benefit-the-public-benefit-requirement-pb1/\)](/government/publications/public-benefit-the-public-benefit-requirement-pb1/) (PB1)
- to operate as a charity
This includes carrying out a charity's purposes for the public benefit. This duty exists in charity law because public benefit is an integral part of a charity's purposes
The commission explains this in [Public benefit: running a charity \(/government/publications/public-benefit-running-a-charity-pb2\)](/government/publications/public-benefit-running-a-charity-pb2/) (PB2)
- to report on a charity's work
This includes reporting on how the trustees have carried out the charity's purposes for the public benefit. This duty is set out in the accounting regulations for charities
The commission explains this in [Public benefit: reporting \(/government/publications/public-benefit-reporting-pb3\)](/government/publications/public-benefit-reporting-pb3/) (PB3)

The [public benefit framework chart \(/government/uploads/system/uploads/attachment_data/file/587635/Public_benefit_framework.pdf\)](/government/uploads/system/uploads/attachment_data/file/587635/Public_benefit_framework.pdf) illustrates these separate, but parallel, requirements and duties.

Part 2: How understanding public benefit helps charities

Public benefit is an essential part of what it is to be a charity. But it is not just a legal requirement that charities have to meet and that the commission regulates.

It also provides charities with a positive opportunity to demonstrate the benefits they bring to the public, in return for the financial and other benefits that come from being a charity, such as public support.

Understanding public benefit helps those setting up or running charities to know what it means to be a charity, and to function as a charity should. It also helps charity trustees to describe and report on their charity's work.

This can help trustees to:

- stay focused on what their charity was set up to achieve
- tell the story of their charity's work, and its impact, to their supporters and beneficiaries, grant makers and funding bodies

Understanding public benefit

The law on public benefit can be complex and the language used about public benefit in charity law may be unfamiliar.

However, whether you are planning to set up a charity, or are running a charity or are reporting on how you have carried out your charity's purposes, for most charities public benefit is quite straightforward.

Basically, public benefit is about knowing:

- what the charity is set up to achieve - this is known as the charity's 'purpose'
- how the charity's purpose is beneficial - this is the 'benefit aspect' of public benefit
- how the charity's purpose benefits the public or a sufficient section of the public - this is the 'public aspect' of public benefit
- how the trustees will carry out the charity's purpose for the public benefit - this is what is known as 'furthering' the charity's purpose for the public benefit

If you are setting up a charity, or are a trustee of an existing charity, you should be able to answer those questions.

The commission's public benefit guidance is here to help you consider if each of your organisation's purposes meets the public benefit requirement and if you are carrying out those purposes for the public benefit.

Part 3: About the commission's public benefit guidance

The commission's public benefit guidance:

- is guidance on public benefit that the commission must issue:
 - to advance the commission's statutory public benefit objective which is to 'raise awareness and understanding of the operation of the public benefit requirement'
 - as guidance to assist charity trustees in carrying out their duties and responsibilities in running their charity to carry out their charity's purposes for the public benefit
- is guidance to which charity trustees must 'have regard' when exercising any powers or duties to which the guidance is relevant (see part 4 of this guide)
- is not the law on public benefit

It is high level general guidance that reflects the law on public benefit. It is written for charity trustees to explain what the law says on public benefit and how the commission interprets and applies that law

For more on this see Part 5: About the law relating to public benefit.

The commission will keep its guidance under review as the law in this area develops

- is not the basis on which the commission make decisions about public benefit

The commission does not make decisions based on its high level public benefit guidance because it cannot cover all the complexities of the law relating to public benefit

The commission makes decisions about public benefit in individual cases based on the law as it applies to the facts of the particular case

- will not (and cannot) address every question about public benefit that trustees may have

These questions may be answered in other information the commission provides about specific public benefit questions or when providing advice in individual cases.

Part 4: Having regard to the commission's public benefit guidance

What the Charities Act requires

The Charities Act says that charity trustees must 'have regard' to the commission's public benefit guidance 'when exercising any powers or duties to which the guidance is relevant'.

The Charities (Accounts and Reports) Regulations 2008 requires charity trustees to confirm that they have done so in their trustees' annual report.

'Having regard' to the commission's public benefit guidance means charity trustees should be able to show that:

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

Part 5: About the law relating to public benefit

To understand public benefit, it is useful to know that:

In relation to the public benefit of a charity's purpose, the law on public benefit:

- has not been considered by the courts in relation to every charitable purpose

Although there are some general principles that can be drawn from legal decisions which apply to all charities

- is not straightforward and keeps changing

Charity law has evolved over hundreds of years and, like charitable purposes, continues to evolve as social conditions change

- is considered in context on a case by case basis

How public benefit is demonstrated varies according to the purpose that is being advanced

In relation to carrying out a charity's purposes for the public benefit, the law on public benefit:

- does not specify what decisions on public benefit trustees must make

There are legal boundaries within which trustees must operate but, within those boundaries, trustees are free to exercise their discretion when making decisions

In many situations there is no one 'right' decision to be made; rather that there are a range of decisions that a trustee could properly make in those particular circumstances

Provided that the trustees make a decision within that range, then they will have made a 'right' decision

The commission's analysis of the law

For information about the commission's view of what the law says on public benefit see the [Analysis of the law relating to public benefit \(/government/publications/legal-analysis-public-benefit\)](/government/publications/legal-analysis-public-benefit)

This analysis of the law may be of interest to charity trustees who wish to know more about the legal basis of the commission's guidance. However, it does not form part of its set of public benefit guides, and so is not, as such, guidance to which charity trustees must have regard.