

A summary of the Charity Commission guidance on public benefit and the prevention or relief of poverty

The Charity Commission published its guidance on the prevention or relief of poverty on the 17 December 2008. This information sheet seeks to provide an overview for trustees on the essentials of that guidance. This guidance must be read in conjunction with our top level guidance relating to the delivery of Public Benefit by charities and the overarching principles which is available at www.bllaw.co.uk/charityinformationsheet

What is poverty?

- There is no absolute definition of poverty. The problems giving rise to poverty are multi-dimensional and cumulative, affecting individuals and communities experienced on a short-term or long-term basis.
- Poverty:
 - includes both financial hardship and a lack of material things and the disadvantage, and difficulty arising from the lack of financial or material resources
 - is relative and has to be considered in the context of an organisations aims, its beneficiaries and where the organisation carries out its aims
 - can both create and be created by adverse social conditions (eg poor health and nutrition, low levels of educational achievement)
- **People in poverty** include the poor and 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** can be, but is not necessarily the same as, poverty. Relieving financial hardship can be charitable (eg giving assistance to a person who has temporarily lost his/her job).
- In most cases the Commission will treat the relief of poverty and the relief of financial hardship the same.
- Whilst there is a significant degree of overlap between the aims of preventing or relieving poverty and advancing other charitable needs associated with ethnicity, geography, gender, age, disability, ill-health and education and skills, the guidance relates to the prevention and relief of poverty part(s) of the aims of those charities.
- For the purposes of assessing public benefit the Commission will consider that poverty includes the relief of poverty, and that the relief of poverty includes the prevention of poverty.

Preventing or relieving poverty

- It is more than just giving financial assistance to people who lack money. It depends on the social and economic circumstances in which it arises. It includes addressing both the causes and the

consequences of poverty and promoting and protecting the interests of people in poverty (who by virtue of their condition are vulnerable, voiceless, in fear and powerless, excluded from the opportunities, goods and of services necessary to live a decent life). See below for guidance on the Promotion of Social Inclusion.

- The means of preventing or relieving poverty must be linked to the charities aims. They can either be specific or general. If general then a charity may be able to undertake a wide range of activities.
- There are many ways in which charities may relieve poverty and prevent poverty. For a comprehensive list of examples see Annex A of the Charity Commission Guidance <http://www.charity-commission.gov.uk/publicbenefit/pbpoverty.asp>
- Charities must be clear about **whom** the charities aims are to benefit and **how**.
- Poverty is not considered inherently a political issue so whilst charities for the relief and prevention of poverty can campaign for changes in law, policy and decisions they cannot **exist** for this purpose nor can it be the **continuing** sole activity of the charity.

The identifiable benefit

- This will usually be clear in the case of activities for the relief of poverty – people who would otherwise lack a basic necessity will be provided with it.
- The benefits of activities for the prevention of poverty must be able to show that the way in which it carries out its aims is capable of preventing or relieving poverty. This is not always clear. Eg
 - training and employment given to poor persons leading to reduction in crime
 - benefits flowing from sustainable benefit initiatives and the improvement to the environment
 - provision of medicines to a community, the improvement in health and capacity to lead productive lives
- Direct material or financial assistance to individuals or communities.
- Programmes (eg of research, education and healthcare) that are aimed at alleviating the social conditions that can lead to or are caused by charity.
- The benefit can include the relief of social disadvantage where it arises from poverty but not otherwise.
- The benefit must be linked with the aims of the charity.
- Individual benefits for the relief of poverty must be limited to providing the resources necessary to meet a person's need. When deciding on what assistance to offer, charities should consider the unmet need.

Your beneficiaries

- There must be a rational link between the beneficiaries and the aims.
- The beneficiaries must be persons or a community:
 - in poverty or
 - at risk of being in poverty
- For charities involved in relieving poverty of the vulnerable and who have a particular need, they will usually include the specific activity in its objects clause.
- Charities should have appropriate criteria to guide selection of beneficiaries and assess the benefit (so that it is no more than necessary to relieve need) or in the case of prevention of poverty that they are actually at risk of becoming poor.

- Communities comprise a group of people who share a position of social or economic disadvantage by virtue of a common cause (eg geography, disability). Not all the people need be in poverty as long as most are.
- As a general rule, the class of beneficiaries must have a sufficiently public character:
 - normally the class cannot be defined by reference to a family connection, employer connection, profession or common field of employment or membership of a club or society (connections)
 - in the case of charities set up for the 'relief of poverty' the restrictions on defining the class by reference to the connections set out above, may be capable of constituting a sufficient section of the public
 - in contrast the beneficial class for charities for the 'prevention of poverty' is likely to be very broad by virtue of the fact that their aims are likely to involve addressing practices and issues in society that have a very wide impact, and cannot
 - a charity having the joint aims of 'prevention and relief of poverty' may sometimes be permitted to restrict the class by defining it by reference to connections
- Where trustees of a charity wish to restrict the benefits to a group of people then they must exercise the discretion honestly, reasonably and rationally.

Private benefit

- Private benefits will usually arise either as a necessary but incidental way of the organisation furthering its aims or as a consequence of doing so. They must however be an effective way of furthering the charities aims.
- They can be a one-off payment for services or long term contractual payment.
- Private benefits to the charities beneficiaries are considered necessarily incidentally to the carrying out of the charities aims.
- **Overprovision** of benefit constitutes a private benefit and hence will affect public benefit. Charities must use rational criteria when determining the level of benefit and ensure that it is not significantly more than is needed.

Detriment or harm

- Prevention or relief of poverty is regarded as an inherently 'good thing'.
- The reason for a person's poverty is not a relevant factor. It is the characteristic of a civilised society that certain basic needs are met.
- If there is evidence of harm this will be weighed against the benefits that arise from the activities of the charity.

The promotion of social inclusion

- Poverty is often the cause of social exclusion, frequently in association with other factors such as disability, old age, social background, lack of facilities etc.
- Social inclusion can be promoted essentially by:
 - helping the excluded overcome inequality and disadvantage
 - promoting equal opportunities (hence there is a link with another statutory charitable description namely, the advancement of equality and diversity and the)
- The 'socially excluded' include groups of people who it would be charitable to assist because of their circumstances. So the aims below are capable of being a charitable aim:

- promotion of social inclusion for the public benefit by preventing people from being socially excluded, and
- relieving the needs of those people who are socially excluded, and
- assisting them to integrate into society
- To be considered charitable an organisation which includes the aim of promoting social inclusion must demonstrate that:
 - it carries out its activities amongst those who are socially excluded
 - the purpose of those activities is the promotion of social inclusion for the public benefit
 - those activities are capable of impacting upon the inclusion in society of the people who they are aimed at helping
 - any benefit to an individual or organisation must either directly further the organisation's aims or be incidental to the carrying out the charity's aims
 - its promotion of social inclusion is set out in its objects clause in a way that clearly describes the aim and how it is to be carried out, and provides a suitable definition of social exclusion

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