

Assessing the impact of the 2006 Charities Act on schools

The [Education Review Group](#), an informal network of people concerned about and expert in education and public policy, would like to know what effect, if any, [the 2006 Charities Act](#) is having on the way in which the activities of private schools impact on local state schools.

The legal position

Fee-charging schools which are registered charities must now demonstrate in the accounts they send to the Charity Commission, that as well as providing education, they are fulfilling the charitable aims of their foundation *[and that their activities are for the public benefit.](#)*

This accounting requirement came into force for the period after April 2008. The new style accounts should therefore begin to become available from April 2009 and it will be possible to check on the public benefit such schools provide. Their annual accounts are public documents and can be found on the [Charity Commission's web based Register](#): The Charity Commission register can be searched against each charitable school's name or charity registration number – which can be easily found because all registered charities are required by law to display their charity number on all printed materials that they publish including websites.

Informal indications (from public meetings) as to how the Commission will implement the law

- Means tested bursaries are expected to be the main way schools fulfill the public benefit requirement. The type of means test used should be made explicit. It is not clear whether merit based scholarships not dependent on means will be accepted as well.
- Local partnership arrangements are expected to play a significant part. It seems likely, for example, that making facilities (playing fields, swimming pools etc) available to local state schools would count only if there was no charge for their use.
- The Commission's compliance officers have indicated that when assessing a school's compliance with the public benefit requirement, they will assess any "detriment or harm" only in local, (i.e. caused by a particular fee-charging charitable school) not national, terms.
- There has been some pressure to require schools to send copies of their reports and accounts to local schools and organisations with which they have partnership arrangements.
- It has been stated that schools should make sure that the benefits they offer to the public are wanted and are delivered effectively.

An [example of a public benefit report for a charitable school](#) can be found on the Charity Commission's website.

Pilot studies

The Commission has carried out five pilot assessments of schools in England and reports of these [assessments have recently been published](#) on the Charity Commission website. They are expected to be treated by other schools as evidence of what is required to satisfy the public benefit requirement.

Notes

- In January 2008 the Commission issued guidance to charities in general: [Charities and Public Benefit](#)
- In December 2008 it issued guidance to charities which charge high fees: [Public Benefit and Fee Charging](#). In this document the principles of public benefit were defined as :
 - Principle 1 There must be an identifiable benefit or benefits*
 - 1a. It must be clear what the benefits are*
 - 1b The benefits must be related to the (charity's) aims*
 - 1c Benefits must be balanced against any detriment or harm.*
 - Principle 2 Beneficiaries must be the public or a section of the public*
 - 2a The beneficiaries must be appropriate to the (charity's) aims*
 - 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*
 - 2c. People in poverty must not be excluded from the opportunity to benefit*
 - 2d Any private benefit must be incidental.*
- Further guidance for education charities was also issued in December 2008, [The Advancement of Education for Public Benefit](#)
- In spring 2009 the Commission published an example of how a school might report its activities under the terms of the Act. The example can be found at <http://www.charity-commission.gov.uk/Library/publicbenefit/pdfs/pbexalltown.pdf>

The ERG's membership and documents can be found at <http://www.educationreviewgroup.org/>.