

## Appendix 2 King George's Field Trust (KGFT) Charity Commission's Public Benefit Guidance

### Introduction

London Borough of Tower Hamlets, as Corporate Trustee, is aware of the Charity Commission's guidance on Public Benefit. For information an overview of the Public Guidance is being provided to the King George's Field, Mile End Charity Board. Below is an extract of the Charity Commission's guidance on Public Benefit.

### Public benefit: rules for charities

Charity trustees must 'have regard' to the Charity Commission's public benefit guidance when carrying out activities to which it's relevant.

### About public benefit

In England and Wales, public benefit is part of what it means:

- to be a charity - your charity must have only charitable purposes which must be for the public benefit ('the public benefit requirement')
- to operate as a charity - as a charity trustee, when running your charity you must carry out your charity's purposes for the public benefit
- to report on a charity's work - as a charity trustee, you must report each year on how you have carried out your charity's purposes for the public benefit and confirm that, in doing so, you have had regard to the [Charity Commission's public benefit guidance](#) where relevant

All charity trustees have a duty to 'have regard' to the commission's public benefit guidance when exercising any powers or duties to which the guidance is relevant. As a charity trustee, 'having regard' to the commission's public benefit guidance means being able to show that:

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

### The public benefit requirement

Your charity's 'purpose' is what it is set up to achieve. For an organisation to be a charity, each of its purposes must be for the public benefit. The Charities Act 2011 calls this the 'public benefit requirement'.

The public benefit requirement has two aspects:

### The 'benefit aspect'

To satisfy this aspect:

- a purpose must be beneficial - this must be in a way that is identifiable and capable of being proved by evidence where necessary and which is not based on personal views

- any detriment or harm that results from the purpose (to people, property or the environment) must not outweigh the benefit - this is also based on evidence and not on personal views

### **The ‘public aspect’**

To satisfy this aspect the purpose must:

- benefit the public in general, or a sufficient section of the public - what is a ‘sufficient section of the public’ varies from purpose to purpose
- not give rise to more than incidental personal benefit - personal benefit is ‘incidental’ where (having regard both to its nature and to its amount) it is a necessary result or by-product of carrying out the purpose

In general, for a purpose to be a charitable purpose it must satisfy both the benefit and the public aspects. However, charities for the relief (and in some cases the prevention) of poverty need only satisfy the benefit aspect.

Your organisation cannot be a charity if it has some purposes that are charitable and some that are not. For more information, read [Public benefit: the public benefit requirement](#).

### **Carry out purposes for the public benefit**

As a charity trustee, it’s your responsibility to run your charity in a way that carries out its purposes for the public benefit. This means:

#### **Make decisions to ensure your charity’s purpose provides benefit**

This means understanding how the purpose is beneficial and carrying it out so as to benefit the public in that way.

#### **Make decisions to manage risks of detriment or harm to your charity’s beneficiaries or to the public in general that might result from carrying out the purpose**

This means identifying risks of harm, minimising the risks and making sure that any harm that might arise is a minor consequence of carrying out the purpose.

#### **Make decisions about who benefits in ways that are consistent with the purpose**

This means knowing who can potentially benefit from the purpose and giving proper consideration to the full range of ways in which you could carry out your charity’s purpose. You may choose to focus on certain beneficiaries. You can do this provided that you have proper reasons for doing so and you make your decisions in accordance with the framework for trustee decision making.

Other factors that can also affect who can benefit from your charity’s purpose include membership provisions, physical access to facilities provided by the charity (such as opening hours) and charging for a charity’s services.

#### **Make decisions to make sure any personal benefits are no more than incidental**

This means making sure that any personal benefits people receive (having regard both to its nature and to its amount) are no more than a necessary result or by-product of carrying out the purpose.

You must make decisions that are within the range of decisions that trustees could properly make in those particular circumstances. Provided that you do that, then you will have made a 'right' decision. It is not for the courts or the commission to tell trustees which decision to make if there is a range of decisions open to them.

This means that, as a charity trustee, you generally have a choice about how to carry out your charity's purposes, provided that you exercise your discretion in a way which:

- is in accordance with your charity's purpose (so not operating outside of that purpose)
- is for the public benefit
- has regard to the commission's public benefit guidance where relevant
- is in accordance with the general framework for [trustee decision making](#)

The commission would expect you and the other trustees to address and resolve a situation in which your charity's purposes were not being carried out for the public benefit. For more information, read the commission's guide: [Public benefit: running a charity](#).

### **Report on public benefit**

If your charity is registered, your trustees' annual report must explain how you have carried out its purpose for the public benefit. A detailed report is only required if your charity's gross income exceeds £500,000; otherwise a brief summary is all that's needed. You must also state whether you and the other trustees had due regard to the commission's public benefit guidance when exercising any powers or duties to which the guidance is relevant.

If you send the commission your charity's trustees' annual report, it will be displayed on [the public register of charities](#). The commission provides [examples of good public benefit reporting](#) but it does not endorse individual reports.

The commission checks a random sample of trustees' annual reports for the quality of reporting, including about public benefit, and would consider persistent non-reporting of public benefit a potential regulatory issue.

However, reporting on public benefit should not just be seen as a legal requirement that trustees must meet and that the commission regulates. Done well, it can help you stay focused on what your charity is there to achieve. It can also help you demonstrate the value and impact of your charity's work to its supporters, beneficiaries, grant makers and funding bodies.

For more information, read the commission's guide: [Public benefit: reporting](#).

### **The law relating to public benefit**

The commission's public benefit guidance is not the law on public benefit. The law on public benefit is contained in charities' legislation and decisions of the courts.

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

The commission makes decisions about public benefit in individual cases based on the law as it applies to the facts of the particular case, and not on this high-level guidance.

This is because its general guidance cannot cover all the complexities of the law relating to public benefit.

For more information about the commission's view of what the law says on public benefit see:

- [Analysis of the law relating to 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 the commission's set of public benefit guides, and so is not, as such, guidance to which charity trustees must have regard.

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For more information, read the commission's guide: [Public benefit: reporting](#).