

# Charity Commission: public benefit and independent schools

Rachel Holmes | 8 December 2015

When the Charities (Protection and Social Investment) Bill was being debated in the House of Lords, an amendment was tabled that, had it been enacted, would have obliged independent schools to share their facilities with maintained schools and required the Charity Commission to issue guidance on the subject. The amendment was not passed but the Commission wrote to the ISC to discuss a non-legislative route to increasing the sharing of facilities by charitable schools. In its letter, the Commission suggested that, to this end, it would amend parts of its official public benefit guidance and update its specimen annual report of an independent school to give more examples of sharing.

Although the Commission has not altered its official public benefit guidance, it has made a small amendment to its guidance on how fee-charging charities can make their benefits available to the less well-off and has updated its example annual report.

The guidance, entitled "[Charging for services: illustrative examples of benefits for the poor](#)", covers different types of fee-charging charity. The only change appears to be a new paragraph at the end of the section on educational charities, which says:

*"Schools are encouraged to provide a comment on, or outline, in their trustee*

*annual report their individual approaches to public benefit in sports, drama, music and the arts. This is not mandatory but it is viewed as good practice."*

The specimen public benefit report of an independent school can be found [here](#). It is 13 pages long; the introductory page states that it "*demonstrates how both legal requirements and the principles by which the commission assesses public benefit might be addressed*". This briefing focuses on those parts of the report that deal with sharing facilities and expertise with local state schools.

There are two strands to the work of the "Alltown School Foundation Charity" in this sphere:

1. sharing education in sport, drama, music, and science; hosting joint 6<sup>th</sup> form lessons;

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2. sharing expertise and perspectives with colleagues from local schools.

Activities within strand 1 include allowing pupils from local state schools to use its sporting facilities, hosting sporting and science events for pupils from their own school and local schools, and organising a programme whereby its 6<sup>th</sup> form pupils mentor younger pupils from other schools.

Activities within strand 2 include organising and participating in specialist discussion groups for teachers in the local area on, for example, 'cyber' issues/raising academic standards, and sharing expertise with local state school teachers via 'clinics'. The specimen report gives the financial value of the time and support offered in this area, both as an absolute figure and as a percentage of the school's annual spending.

The ISC agreed to co-operate with the Commission when it received the letter this summer and, according to the press release announcing these changes, supports this latest development.

There is no legal obligation for independent schools to share their facilities with State schools, but these changes may indicate a degree of expectation, on the part of the Charity Commission (and, arguably, the public at large), that they will make an effort to do so as part of a package of measures designed to ensure that their educational mission extends to those who cannot afford their fees. However, it is important to ensure that any steps you take will further your school's charitable purposes and are within your constitutional powers. Please get in touch with your usual contact at Farrer & Co if you would like to discuss the legal aspects of entering into collaborative arrangements with local State schools, or if you would like to carry out a more general review of your school's strategy for making its benefits more widely available.

If you require further information on anything covered in this briefing please contact [Rachel Holmes](mailto:rachel.holmes@farrer.co.uk) ([rachel.holmes@farrer.co.uk](mailto:rachel.holmes@farrer.co.uk); 020 3375 7441) or your usual contact at the firm on 020 3375 7000. Further information can also be found on the [Schools](#) page on our website.

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