

Public benefit – or just member benefits?

The new Charities Act means many professional institutes will have to prove they provide public benefit – not just benefit to their own members – in order to stay as registered charities and receive the accompanying tax breaks. Alex Blyth reports

The Charities Act, which entered the Statute Book on 8 November 2006, has been welcomed by many charities as a long-overdue piece of legislation. It brings charity law into line with the many, substantial changes that have occurred in the not-for-profit sector in the last decade.

Yet, as UK charities begin to digest the finer details of the Act, some are finding that it contains some less welcome surprises. Specifically, some membership organisations may find that they are no longer able to operate as charities, and, if this were to be the case, it would have profound implications for those organisations.

The new Act

The Act aims to sharpen the definition of a charity by emphasising the requirement that all charities must exist for the public benefit. Many professional bodies such as the Chartered Institute of Logistics & Transport, the Institute of Leadership & Management, and the Chartered Institute of Public Finance & Accountancy, are registered charities, and they may struggle to fulfill this criterion.

This is simply because many of those organisations exist primarily to provide educational, networking and representation services to their members, and the Charity Commission may choose not to accept that these membership services constitute a public benefit.

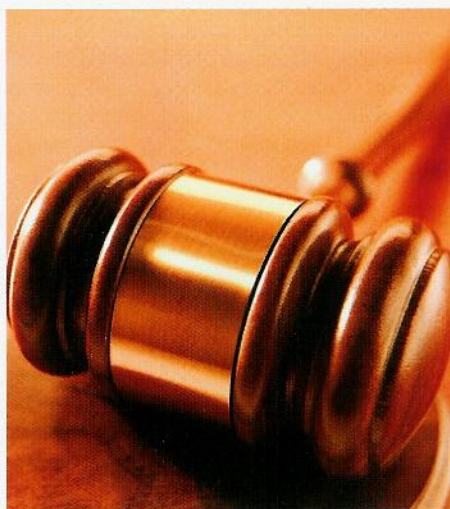
It is possible that public schools will need to open up their facilities to the public in order to keep their charitable status, and the UK's charitable membership organisations may find themselves in a similar quandary: either let the wider public enjoy the same benefits as members, or surrender the benefits of charitable status. Either option would be devastating for most of these organisations.

Redefining charity

The Charity Commission has been charged with defining public benefit, and implementing this requirement, and it began its consultation on the subject on 7 March. Joanne Edwardes, head of status and public benefit at the Charity Commission, says: "The Act is clear that a charity's purpose must provide some public benefit. It doesn't

say that all its activities must be for public benefit, only that its purpose must be. Yet, an organisation's activities are the clearest expression of its purpose."

She continues: "Professional organisations that are primarily membership based may encounter difficulties with this requirement. In the past they had to provide a public benefit, but it was assumed that any organisation involved in the relief of poverty, the advancement of religion or the encouragement of education was



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automatically operating in the public benefit. This assumption has now been removed, and consequently, some membership-based professional organisations may need to think carefully about what public benefit they do offer."

Yet very few have done anything about it so far. Of the many professional institutes asked about the requirement, the only one that had even begun to think about the subject was the Institute of Fundraising. Megan Pacey, its director of policy and campaigns, comments: "We've looked at the public benefit requirement and we're confident that we already provide it. We're a membership organisation, but our work goes far beyond our members.

For example, three-quarters of the calls to our information helpline are from non-members."

Taking action

Edwardes at the Charity Commission agrees that these professional organisations should not worry unduly about the public benefit requirement. She says: "Being a membership organisation will only be a problem if you are restricting it without justification. For example, you would find it hard to justify restricting it to people with blue eyes, but you may well be able to justify restricting it to people with appropriate professional qualifications."

However, this does not mean institutes should rest on their laurels. Instead, they should still be thinking about how to demonstrate the public benefit that they provide. Max du Bois, executive director at branding agency Spencer du Bois, says: "Membership organisations need to look at the wider good. We have been doing a lot of work in this area. For instance, the Royal Academy of Engineering looks to make the UK a great engineering nation and to broaden the appeal of engineering."

He continues: "The Institute of Civil Engineers has climate change and the impact that the built environment has on sustainability at the heart of what it does. Doing this helps justify being subsidised by the taxpayer, but, more importantly, it helps those organisations enthuse their members, employees and other stakeholders around a common, worthwhile mission."

The consultation is expected to last for three months. In the autumn the Charity Commission will publish the principles of public benefit, then during 2008 it will begin a pilot assessment of public benefit, produce detailed guidance for specific types of charity, consult on this guidance and finally report progress to Parliament.

Edwardes concludes: "Most professional organisations will be fine, but they should start to think about how they provide public benefit, and, if it is through membership, then they should think about how they restrict it and justify those restrictions. They should also get involved with our consultation, and provide their input at this early stage."