

THE REVIEW OF THE
REGISTER OF CHARITIES

The Promotion of Community Capacity Building

November 2000



The Charity Commission

The Charity Commission is the independent regulator of charities in England and Wales. Its aim is to provide the best possible regulation of charities in England and Wales in order to increase charities' effectiveness and public confidence and trust. Most charities must register with the Commission, although some special types of charity do not have to register. There are some 180,000 registered charities in England and Wales. In Scotland the framework is different, and the Commission does not regulate Scottish charities.

The Commission provides a wide range of advice and guidance to charities and their trustees, and can often help with problems. Registered charities with an annual income over £10,000 must provide annual information to the Commission. The Commission has wide powers to intervene in the affairs of a charity where things have gone wrong.

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About this publication

1. This publication provides guidance on the promotion of community capacity building as a charitable purpose. We have considered this as part of our Review of the Register of Charities. We are very grateful to all those who contributed to the public consultation that led to this guidance.

The Review of the Register

2. The Charity Commission aims to give the public confidence in the integrity of charity. We are accountable for our decisions to the courts and for our efficiency to the Home Secretary. We carry out a variety of functions including the registration, monitoring and support of charities and investigation of alleged wrong doings.
3. The Register of Charities is a list of charities set up in England and Wales that we supervise. We have a statutory responsibility for keeping it up-to-date. The understanding of what is legally charitable has continued to evolve since the Register was first created over 35 years ago. Consequently, there are almost certainly organisations on the Register, which most people would not now regard as charitable, and organisations not on it that perhaps they might.
4. The Review is about whether, within the law, and by the flexible use of the Commissioners' powers there is scope to develop further the boundaries of charitable status and whether those organisations that currently benefit from charitable status should continue to do so.
5. The principles that we are using are all based on existing charity law. These "essential characteristics of a charity" can be found in our separate publication **The Review of the Register of Charities (RR1)**, which also explains the process in more detail.

The promotion of community capacity building as a charitable purpose

6. The Commission has decided that the promotion of community capacity building in relation to communities which are socially and economically disadvantaged (or, in some cases, which are simply socially disadvantaged) can be accepted as a charitable purpose.

What is 'community capacity building'?

7. The term 'community capacity building' means different things to different people. We understand it as meaning developing the capacity and skills of the members of a community in such a way that they are better able to identify, and help meet, their needs and to participate more fully in society.
8. Community capacity building as we understand it is therefore concerned with
 - providing opportunities for people to learn through experience - opportunities that would not otherwise be available to them; and
 - involving people in collective effort so that they gain confidence in their own abilities and their ability to influence decisions that affect them.

Thus individual involvement and **collective** activity go hand in hand: the aim is to encourage people in a community to join together with others so as to provide through collective effort what the community needs, but in such a way that those taking part also develop their own potential as members of society.

What do we mean by a 'community' for this purpose?

9. We mean a group of people who share a position of social and economic disadvantage or social disadvantage only. They may share that disadvantage by virtue of living in the same geographical area (a 'geographical community'). Or they may share it because they have something else in common, such as a disability or membership of a particular ethnic group (a 'community of interest').
10. The community, be it a geographical community or a community of interest, need not be in the United Kingdom, it could be overseas.
11. To support a claim to charitable status, the community in question will need to be socially and economically disadvantaged or, in some cases, simply socially disadvantaged. (See A3 to A5 below.)

What do we mean by 'capacity building' for this purpose?

12. We mean *making a positive difference* to the capacity and skills of the members of the community in question because they participate with other members of that community in activities directed towards meeting their needs in some way. Sometimes this process is described as 'empowerment'.
13. In more specific terms, this is likely to involve:
 - equipping people with skills and competencies which they would not otherwise have;
 - realising existing skills and developing potential;
 - promoting people's increased self-confidence;
 - promoting people's ability to take responsibility for identifying and meeting their own, and other people's, needs; and
 - in consequence encouraging people to become involved in their community and wider society in a fuller way.
14. A wide range of activities may be undertaken to this end. Examples are given in A13 and A14 below.

Is community capacity building distinct from community activity generally?

15. Not every activity which benefits a community can be seen as promoting community capacity building in the sense described above. Many community-based activities may strengthen the capacity of the community. But to be entitled to charitable status in the sense described above, a body must be set up with the promotion of community capacity building as its *purpose*. It is not enough that benefits of the kind described above may arise as an incidental by-product of its activities.

This crucial distinction is explained in more detail in Annex B.

How does the promotion of community capacity building benefit the public?

16. To be entitled to charitable status, an organisation must benefit the public. We believe that, when community capacity building is directed at communities which are socially and economically disadvantaged (or, in some cases, communities which are simply socially disadvantaged) indirect benefit to the public arises in terms of:
 - the increase in skills, competencies and self confidence on the part of members of such communities;
 - the more effective, efficient and sustainable delivery of services to such communities; and
 - the promotion of social cohesion.

What are the requirements for registration as a charity with this purpose?

- 17.** An organisation applying for registration as a charity for the promotion of community capacity building will need to show that:
- It carries out its activities amongst members of a socially and economically disadvantaged community or, in some cases, a community which is simply socially disadvantaged (see A6 to A10 below);
 - The purpose of those activities is the improvement of the capacity and skills of those who take part in them (see A11 to A15 below and B1 to B6);
 - Those activities are capable of improving the capacity and skills of those who take part in them (see A11 to A15 below);
 - Any personal benefit derived by individuals or groups from the organisation's activities is incidental to the wider benefit to the public (see A16 to A27 below); and
 - It has objects in a form which describe the purpose and the benefits flowing from it with sufficient clarity, ideally being expressed as follows:
"to develop the capacity and skills of the members of the [socially and economically] [socially] disadvantaged community of [] in such a way that they are better able to identify, and help meet, their needs and to participate more fully in society"
(see A29 and A30 below).
- 18.** Annex A sets out in more detail the basis on which a community capacity building organisation can be charity and what applicants for registration need to do to demonstrate that their organisation meets the requirements set out in paragraph 17 above. Annex B amplifies the important distinction between bodies which exist to promote community capacity building and other bodies which engage in activities which benefit communities.

Further information

If you are interested in setting up a charity to promote community capacity building, please contact us through our website www.charitycommission.gov.uk.

Further reference

For further information you may find it useful to refer to the following Charity Commission publications:

RR1 - The Review of the Register of Charities

RR2 - Promotion of Urban and Rural Regeneration

Annex A Requirements for registration as a charity for community capacity building

What qualifies as a community for this purpose?

A1. To sustain a claim to charitable status on the basis of community capacity building:

- an organisation's activities must be directed to a community whose members are in need of the improvement to their capacity and skills that community capacity building activity can bring; and
- the difference that improvement can make to them must be capable of benefiting the public sufficiently (in the ways described in paragraph 16 above) to justify the purpose as charitable.

What do we mean by 'in need'?

A2. We do not mean a need which it might be charitable to relieve under other recognised charitable purposes, such as a financial or physical need. We mean a need for improvement in peoples' capacity - that is, in their self-confidence, basic skills and ability to make an impact upon their own lives, their own community and society generally.

Why is social and economic disadvantage a qualification?

A3. Most communities will not meet the requirements explained in A2 above since their members will generally already have the skills they need to take collective action to influence their conditions of life. The same will not be true, however, of communities which are both socially and economically disadvantaged (which are of course the very communities in relation to which community capacity building is generally practised).

A4. In some cases, we believe that it may be possible to meet the requirements explained in A2 above in relation to communities which are merely socially disadvantaged. (Economic disadvantage alone does not feature as a qualification for an eligible community only because it is accepted that that will invariably be accompanied in practice by social disadvantage.) Examples of qualifying social disadvantage might include communities which, although their members do not suffer from low incomes or high unemployment, nonetheless experience significant social exclusion as a result of high levels of crime, drug use or ethnic tension. In such communities it may well be possible to produce evidence to show that a significant number of its members are

- in need of the improvement to their capacity and skills that community capacity building activity can bring, and
- that the difference that improvement can make to them is capable of delivering the sorts of benefit to the public described in paragraph 16 above.

A5. The latter requirement takes outside the scope of the new purpose organisations whose beneficiaries are in need of community capacity building but whose purpose is to meet their social needs. Those organisations might instead fall within the scope of other recognised charitable purposes (because they are set up for the relief of sickness amongst drug users say).

A6. Thus we believe that the charitable purpose should be restricted to instances where community capacity building is undertaken in relation to

- communities which are economically and socially disadvantaged; or
- communities which are merely socially disadvantaged, provided that there is evidence to show that a significant number of the members of the community in question are in need of the improvement to their capacity and skills that community capacity building activity can bring, and that the difference that improvement can make to them is capable of delivering the sorts of benefit to the public described in paragraph 16 above.

How can promoters demonstrate that a community is socially and economically disadvantaged or socially disadvantaged?

What indicators of economic and social disadvantage may be used?

A7. Promoters will need to demonstrate the status of the community as economically and socially disadvantaged, or merely socially disadvantaged, by reference to appropriate indicators. We will not be prescriptive as to just what they should be in any particular case. It will, instead, be for the promoters to propose appropriate indicators. Promoters may find that they can frame appropriate indicators by looking at the evaluation techniques for this type of activity. In selecting indicators, the promoters will need to bear in mind that they:

- will depend upon whether a community is a geographical community or a community of interest;
- should show that a need for community capacity building exists; and
- should be relevant to why that need exists amongst members of that community.

A8. Appropriate indicators might include:

- economic indicators, such as levels of unemployment, benefit receipt and poor housing;
- social indicators, such as the extent to which people from different sections of a community are represented in decision making within the community, the extent and take-up of the facilities available in an area and levels of reported crime, young people excluded from school or registered drug users.

Plainly, this is not an exhaustive list.

A9. Nor will we prescribe the source of appropriate indicators. Sources may include:

- data produced by government (eg the Department for the Environment, Transport and the Regions or the Welsh Assembly (or its predecessor the Welsh Office)), including anti-poverty maps (based on people receiving benefits) and reports on disadvantage in rural areas;
- material specific to certain communities, including community and voluntary sector sources like community surveys, local audits, breakdowns of council designated wards (to distinguish needier from more affluent areas) and qualitative research and case studies (of particular value for non-geographical communities); and
- material specific to a particular feature of a community collected by specific bodies (such as that on levels of income collected by Registered Social Landlords in their lettings and tenants surveys).

Again, this is by no means an exhaustive list of possible sources of appropriate indicators.

Application of indicators

A10. The amount of information from appropriate indicators required to demonstrate that a community is socially and economically disadvantaged, or socially disadvantaged, will depend upon the type of community in question and why its members are in need of community capacity building. Information necessary or appropriate in one case may not be in another. So flexibility will be needed on the part of promoters and of the Commission. We recognise that we may be approached when an organisation is only in its very early stages and when promoters may be less well equipped to compile evidence in support of their application for charitable status.

A11. In all cases, what matters is that indicators are appropriate to demonstrate need on the part of the members of the community in question. For example, evidence of a need for improved skill levels amongst the unemployed in a geographical community would not be sufficient to demonstrate that a need exists for community capacity building amongst all members of that community. Conversely, it would not be necessary to demonstrate a need for improved skill levels amongst all of the members of a community if community capacity building was to be carried out only amongst part of that community.

What activities are appropriate?

A12. Because of the different contexts in which community capacity building can be carried out, it is not possible to provide an exhaustive or typical list of activities. What matters is not so much the volume or variety of activities, as the nature of those activities.

A13. The need to make a difference to members of the community through collective effort means appropriate activities are those which offer genuine participation and involvement for those individuals. We would therefore expect to see activities that:

- combine encouragement with practical assistance; and
- help members of the community to help themselves.

A14. Because of the emphasis on equipping people to be better able to do things for themselves, suitable activities will involve:

- working *with* members of the community;
- providing support and assistance that enables them to identify and deal with problems that affect them as members of that community;
- developing structures which enable them to be better placed to co-operate with each other and deal with organisations in the wider community;
- providing advice and support for evaluation of projects;
- nurturing networking and the sharing of experiences as part of the learning process; and
- enabling groups to consolidate and build upon existing skills.

A15. Specifically, appropriate activities might include:

- providing training or instruction of any sort, including formal training (eg in the use of a PC or the preparation of accounts);
- providing advice/support as to how to identify needs or priorities of groups, or to plan projects and their implementation (eg drawing up business plans, budgets, funding applications);
- equipping with or developing transferable skills such as team-working and problem solving
- developing peoples' capacity to organise structures and practices within their organisations(s) (eg through training in meeting skills, management methods and techniques for projects and people); and
- developing peoples' capacity for working within structures outside their group(s) (eg by coaching in negotiation, assertiveness and advocacy).

A16. We would not expect promoters to show precisely what benefits activities would deliver. But we would expect them to explain what sort of activities the organisation intended to carry out and why they would be *capable* of making a difference to the abilities of the members of the community in question.

Which types of personal benefit are acceptable and which are not?

A17. To be a charity, a body promoting community capacity building must be set up for the benefit of the public. This means that any personal benefits must be ancillary or incidental to the wider benefits to the public flowing from its activities. That is, they must be directed towards achieving the wider benefit to the public, or must naturally flow from it; and in either case the extent of the personal benefit must not exceed what is reasonable. Whether this requirement is met will depend on the circumstances of the case.

- A18.** Personal benefit to members of a community from the work of a community capacity building organisation, in terms of improved skills, confidence and capacity (eg an improved ability to present arguments orally or in writing) will be acceptable. This is because it is that very benefit to individuals which delivers the necessary benefit to the public (see paragraph 16 above).
- A19.** The personal advantage that people might derive subsequently from the application of those skills (in the job market, for example) would not be objectionable either. That would be considered incidental to the wider benefit to the public which comes from having acquired or improved skills - in the same way that the personal benefits which flow to individuals from education are seen as incidental.
- A20.** Beyond that, it is not possible to say with precision which activities will or will not bring more than incidental or ancillary personal benefit to individuals or groups. In each case we will have to take a view as to the balance between public and personal benefit flowing from the proposed activities.
- A21.** That will include taking into account any other outcomes for members of the community from the activities of the organisation. Some outcomes may themselves be of benefit to the public which means that they are charitable (eg a community centre: see Annex B) but other outcomes may go beyond what is acceptable (see paragraph A23).
- A22.** We accept that this exercise may be difficult in many cases. Promoters may find it hard to identify private benefit when they apply for registration. They may not be able to predict precisely what benefits there might be, particularly if they do not know with what groups they will be working.
- A23.** However, we would expect promoters to be able at least to identify the *potential* for benefit to individuals and groups beyond that of the kinds mentioned in paragraphs 12 and 13 above (by undertaking an assessment of the type explained in paragraphs A23 to A28). Without that we cannot be satisfied that the balance between public and private benefit is such as to justify registration as a charity.

How can promoters demonstrate that any private benefits are acceptable?

- A24.** Promoters will need to consider their proposed activities and identify whether any individual will receive benefits from them which go beyond what is acceptable (see paragraphs 12 and 13 above). They will also need to consider the benefits to any groups with whom they will work: the extent to which they may become better organised, better informed and more focused may not always be incidental to the wider benefit to the public.
- A25.** The sort of benefits that will need to be considered particularly carefully are those:
- arising from activities which bring significant personal benefits to individuals (for example, giving detailed advice on how to set up and run a business);
 - arising from activities which bring significant personal benefits to a small group of individuals (such as a savings club);
 - arising from activities directed towards members of a non-charitable group which is concerned with the personal interests of its members (such as a residents' association or a shopkeepers' association).
- A26.** An activity of a particular kind may, in some circumstances, provide personal benefit to individuals or groups to such an extent that it is possible to say that that is needed to develop their capacity. Yet, in other circumstances that may not be so.

A27. Promoters will need, therefore, to look at discrete activities, taking into account factors which might impact upon the benefits they bring. The following factors might be relevant:

- (i) who is to benefit from the activities?;
- (ii) what type of benefit is involved?;
- (iii) what is the value of the benefit?;
- (iv) how is any benefit to be used?; and
- (v) how long will the benefit last?

A28. Promoters need to be aware that material and personal benefits that may be acceptable under other charitable purposes may not be acceptable for this charitable purpose. With some charitable purposes certain personal benefits are acceptable because they are part and parcel of delivering benefit to the public. So, for example, the giving of detailed business advice could be justified as support for the relief of unemployment or the relief of poverty.¹ It would not necessarily be possible to justify the same benefits as being part and parcel of what is needed to bring about improvement in the capacity of members of a community. But there are circumstances where that would be the case. (For example, where short-term, business start-up advice is given to a car maintenance business founded as a capacity building exercise for socially excluded young men.)

A29. Promoters will also need to consider whether the trustee body might include individuals who may themselves benefit from the activities of the organisation. Benefit to those individuals not only has to be acceptable as described above (see paragraphs A17, A18 and A20): it also has to be a benefit which a trustee is expressly authorised to receive, either by the governing instrument of the proposed charity, the Commission or the Court. Thought therefore needs to be given by the promoters to the need to include in the governing document provisions authorising such benefits and providing for what is to happen when a decision is to be taken by the trustee body which **directly affects** an individual trustee².

What form should the objects take?

A30. We strongly recommend the adoption of the objects proposed in paragraph 17 above. Objects in that form clearly identify the purpose for which the community capacity building activities are carried out. And they make plain what brings about the benefit to the public which justifies this purpose as a charitable purpose. They also remove any doubts about what the phrase 'community capacity building' means (certainty of objects being a requirement for a charitable purpose³). And the express reference to the features of an eligible community helps to avoid wasted time and resources on the part of promoters who might otherwise pursue applications for non-eligible communities.

A31. If objects do not take the form proposed in paragraph 17 above, they will need to be expressed with sufficient clarity for it to be clear what the purposes of the body are.

¹ See RR3 Charities for the Relief of Unemployment.

² See CC24 Users on Board: Beneficiaries who become trustees.

³ See eg *Re Koeppler's Will Trusts* [1984] Ch 243, 257-8. Although the actual decision was reversed on appeal on different grounds, this statement of the position was expressly affirmed by the Court of Appeal: see [1986] Ch 423, 432 per Slade L.J.

Annex B Distinguishing this purpose from others

How is the promotion of community capacity building different from promoting other community-based activity?

- B1.** In practice, community capacity building will usually revolve around providing an immediate, concrete result for the community ('an immediate community benefit'). In the case of a geographical community, for example, that will often be some sort of physical community facility such as a community centre.
- B2.** Working towards an immediate community benefit will not prevent an organisation from satisfying the requirements of this purpose. We recognise that providing such a benefit will often be the focus of what a community capacity building organisation does. But an organisation will not be set up to promote community capacity building if achieving the immediate community benefit is its purpose, with any improvement to the community's capacity being merely an incidental consequence of that. Rather, the improvement to the community's capacity must be its purpose, with the provision of the immediate community benefit being no more than a means to that end.
- B3.** Thus if, for example, a body is set up to provide a community centre, and the benefits to the local community in terms of capacity building which flow from providing that facility are simply part and parcel of securing that result, then the body will not be established for the promotion of community capacity building. If, however, a body is really established to enhance the local community's capacity, and the provision of the community centre is the vehicle by which that is intended to be achieved, then its purpose is to promote community capacity building.
- B4.** One practical test of whether a body's purpose is the provision of an immediate community benefit or the promotion of community capacity building would be whether it would see itself as having failed to achieve its purpose if it were unable to provide the immediate community benefit: if it did, then its purpose would seem to be the provision of that facility rather than the promotion of community capacity building.
- B5.** Sometimes an organisation may have charitable purposes which include the promotion of community capacity building. That purpose can be carried out in parallel to the furtherance of another charitable purpose. It may become a purpose of an organisation established for another charitable purpose within a qualifying community. Or, alternatively, an organisation established for the promotion of community capacity building may evolve so that any immediate community benefit becomes one of the organisation's purposes, as opposed to just the focus of its activities.
- B6.** So it may be possible to conclude that an organisation exists *both* to improve the capacity of members of a community and to provide an immediate community benefit which furthers a charitable purpose. Where the promotion of community capacity building is a purpose of a charitable organisation, that organisation would have to meet the same criteria as if it were the sole purpose of that body.
- B7.** Indeed, it is possible that the beneficiary class for each purpose may differ. If that is so, what matters is that the requirements of the new purpose are met for those members of the community amongst whom community capacity building activity is to be carried on.

Relationship with urban and rural regeneration

- B8.** The promotion of urban and rural regeneration is a charitable purpose in its own right, quite distinct from the promotion of community capacity building⁴.

⁴ See RR2 Promotion of Urban and Rural Regeneration

B9. But if community capacity building is carried out in relation to a geographical community it may take place alongside the promotion of urban and rural regeneration - particularly if the activity revolves around trying to make physical changes to an area (eg by providing public amenities or recreational facilities for the benefit of members of the community). It would only be appropriate for a body engaging in urban and rural regeneration to adopt an object directed to the promotion of community capacity building, however, if that were one of its purposes, as opposed to merely being a by-product of its activities.

Relationship with other charitable purposes

B10. Many different types of charity may use community capacity building style activity to further their objects. Examples would include charities established for the relief of poverty overseas and charities established for the relief of elderly or sick people within the United Kingdom, which may all carry out activities which concentrate on building the capacity of the classes of beneficiary they exist to serve as a means of relieving their needs. But it would not be necessary, or appropriate, for them to alter their purposes so as to include the promotion of community capacity building unless they satisfy the requirements of that purpose in the same way as would promoters of a new charity. That would involve the promotion of community capacity building again being one of their purposes in its own right, as opposed to simply a means of achieving some other charitable purpose.

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