

CHARITY COMMISSION

APPLICATION FOR REGISTRATION OF GUIDESTAR UK

DECISION OF THE COMMISSION MADE ON 7 MARCH 2003

1. The issue before the Commission

The Commission considered an application for registration by a not-for-profit company limited by guarantee called Guidestar UK ("Guidestar") for registration as a charity. If the company was established as a charity it should be entered on the Central Register of Charities under section 3(2) of the Charities Act 1993.

This decision has been made by the Status Division in the course of carrying out the Commission's registration function under the Charities Act 1993, supported by legal advice.

2. Decision

The Commission:

- having considered the case which has been put to them by Guidestar, and full supporting evidence including its Business Plan; and
- having considered and reviewed the relevant law and the governing document and activities of Guidestar and the context in which Guidestar intends to operate

concluded that Guidestar is established for the exclusively charitable purpose of the promotion of the voluntary sector for the benefit of the public by establishing and maintaining a publicly available comprehensive database about the activities and finances of charities established in the United Kingdom which will contain information to enable donors and funders to more effectively and generously make donations to charities, enable grant making charities to more effectively target their grant making, and better enable charities and others to effectively assess their performance.

In consequence, Guidestar should be registered as a charity.

3. The objects of Guidestar

3.1. Guidestar, registered on 23 December 2002 as a company limited by guarantee with Memorandum and Articles of Association, was established with the following object, to:

"promote the voluntary sector for the benefit of the public by establishing and maintaining a publicly available comprehensive database about the activities and finances of charities established in the United Kingdom which will

contain information to enable donors and funders to more effectively and generously make donations to charities, enable grant making charities to more effectively target their grant making, and better enable charities and others to effectively assess their performance."

4. Consideration of Guidestar's activities

4.1. The Commission noted that Guidestar described its activities as to establish and maintain a comprehensive information system about the charitable sector. It said that the database system would contain extensive up-to-date and accurate records about the activities and finances of charities established in the UK.¹ The information from the database will be made available and utilised in a number of ways, principally through a public website, featuring a robust search engine and collection of web pages for each organisation.

4.2. Guidestar will also provide the information on the database:-

- 4.2.1. through a voluntary reporting service for charities, enabling charities to gather information about themselves for potential donors, funders, volunteers and others, in addition to the basic information prepared by Guidestar;
- 4.2.2. by providing specialised reports on charities, which will consist of further analytical information e.g. on financial performance and particular datasets; and
- 4.2.3. by providing specific fields of information in the database to other organisations for use in developing other value-added services, such as on line giving.

5. A New Charitable Purpose of Promoting the Voluntary Sector for the Benefit of the Public

5.1. The Commission has been considering within the context of its Review of the Register programme whether the purpose of promoting the voluntary sector for the benefit of the public could be accepted as a novel charitable activity under the fourth head of charity. The Commission has taken into account their stated policy on the recognition and acceptance of novel charitable purposes as most recently set out in the Commission's publication *Recognising New Charitable Purposes*². It takes a constructive approach in applying the law which takes into account changing social circumstances and needs and which is open to novel ideas through which those needs can be addressed.

5.2. Acting within the current legal framework the Commission looks to see if there is a sufficiently close analogy with cases previously decided by the

¹ The database will contain details of all registered charities in England and Wales and if feasible exempt and excepted English and Welsh charities and charities recognised by the Inland Revenue in Scotland and Northern Ireland

² RR1A, Paragraph 23

courts or accepted by the Commission or with the broad principles derived from the scope of the 1601 preamble³. The Commission is concerned to act constructively and imaginatively particularly where public benefit arising through a proposed new charitable purpose is clear.

- 5.3. The Commission has previously issued a Review of the Register consultation paper⁴ (“Consultation Paper”) on whether the purpose of promoting the voluntary sector for the benefit of the public should be accepted as a charitable purpose in its own right and the nature of the possible activities which might promote that purpose.
- 5.4. The Commission’s views on what charitable purposes the purpose of promoting the voluntary sector for the benefit of the public is analogous to were previously set out in the Consultation Paper. They included the promotion of commerce and industry for the benefit of the public, the furthering of mental and moral improvement of the community and promoting good citizenship. The Commission was satisfied that there was sufficient analogy in relation to the purpose of promoting the voluntary sector for the benefit of the public to accept this purpose was charitable.
- 5.5. The Commission’s views on what the public benefit was arising from the promotion of the voluntary sector were also set out in the Consultation Paper. They included that there was a substantial benefit to the public in having an effective voluntary sector and that both tangible benefits (such as engaging and directing efforts of individuals that wish to help those in need) and intangible benefits (such as encouraging altruism in society) to the public would arise. The Commission was satisfied that the promotion of the voluntary sector was of benefit to the public and that that public benefit was established by this purpose.
- 5.6. Accordingly, the Commission was satisfied that in principle the purpose of promoting the voluntary sector for the benefit of the public was acceptable as a charitable purpose in its own right providing that it could be shown (with sufficient evidence) that the activities of a particular organisation were capable of promoting the voluntary sector for the benefit of the public, the public benefit was clear and any benefits which arose in carrying out these activities were incidental to the achievement of the charitable object.
- 5.7. The Commission intends to publish guidance on the purpose of the promotion of the voluntary sector for the benefit of the public in due course.
6. **Are Guidestar’s activities capable of directly and substantially furthering the charitable purpose and is it established for the public benefit?**
 - 6.1. The Commission considered the argument put forward by Guidestar about the impact of the activities on the voluntary sector, including the benefits to particular groups of users; improving access for the public to information

³ The Preamble to the Charitable Uses Act 1601

⁴ Currently available on the Commission’s website under “Recently Closed Consultations”

about the voluntary sector, improving donors' and grant makers' confidence in charities, improving the ability of them and others to monitor the performance of charities and streamlining for the benefit of the charities the information they provide to multiple audiences.

- 6.2. The Commission considered the evidence presented to it about the nature and operation of an equivalent organisation in the USA, the Philanthropic Research Inc. ("PRI"). The Commission noted the empirical evidence about the use of the PRI database and its services by various groups, including charities, donors, grant makers, regulators, policy makers, those supplying professional services to charities, researchers and other third parties. It also considered the evidence collected analysing the amount of charitable funding directly attributable to the PRI systems, as well as feedback from members of the sector.
- 6.3. It noted that Guidestar's services were open to any individual or organisation to access. The website would be freely available although it was proposed to charge for certain other services.
- 6.4. The Commission considered that the activities were capable of impacting upon the voluntary sector as a whole, providing donors with tools to identify, compare and track the record of charities undertaking activities they wish to support, encouraging donations, streamlining charities' reporting to grant makers, researchers, donors and others thereby increasing their efficiency and effectiveness and better enabling donors, grantmakers and others to assess their performance.
- 6.5. The Commission was satisfied that the accuracy and quality of the proposed database had been shown. The Commission noted that a risk analysis had been carried out on Guidestar's proposed activities. It also noted that Guidestar would collect information primarily from the annual accounts, trustee reports and the public Register of Charities maintained by the Commission and that charities may use the voluntary reporting service to enter further information about its programmes and activities. It was noted that Guidestar also expected to send data to charities for validation.
- 6.6. The Commission noted that Guidestar had already received some grant funding, as well as securing other commitments from several funding sources.
- 6.7. The Commission was also satisfied that Guidestar was sufficiently independent of PRI, including in terms of the composition of its trustee body and the identity of its employees and proposed contractors. In particular it noted that there was no obligation on Guidestar to accept support and equipment from PRI in setting up the UK database and the trustees are considering a range of options. It also noted that intellectual property rights in the database would belong to Guidestar.
- 6.8. Guidestar had identified as a risk misuse of data by third parties and this would be monitored. The Commission was satisfied that any private benefits which arose to individuals or organisations gaining access to the

database or information within it were legitimately incidental to the public benefit.

7. Conclusion

7.1 The Commission was satisfied that:-

- 7.1.1 the means of achieving Guidestar's object, as set out in its governing document, reflected its activities;
- 7.1.2 there was sufficient evidence to demonstrate that those activities had the potential to lead directly to the fulfilment of the purpose, in particular that the activities had a sufficiently wide impact on the voluntary sector as a whole;
- 7.1.3 the necessary public benefit had been shown; and
- 7.1.4 any benefits which may accrue to individuals and organisations accessing or using the database system are incidental.

7.2 The Commission therefore concluded that Guidestar was established for the exclusively charitable purpose of the promotion of the voluntary sector for the benefit of the public by those means which are set out in its objects.

7.3 The Commission agreed to offer Guidestar registration on the basis that it included appropriate definitions of the "voluntary sector" and "charities" in its object as set out in the Annex to this Decision. Subject to this, Guidestar should be registered as a charity pursuant to Section 3 of the Charities Act 1993.

ANNEX

“the word “charities” means organisations which are established for exclusively charitable purposes in accordance with the laws of England and Wales, the law of Scotland, or the law of Northern Ireland (as appropriate);

the words “voluntary sector” mean charities and/or voluntary organisations; and

the words “voluntary organisations” mean independent organisations which are established for purposes that add value to the community as a whole, or a significant section of the community and which are not permitted by their constitution to make a profit. For the avoidance of doubt, “voluntary organisations” do not include local government or other statutory authorities.”