

CHARITY COMMISSION FOR ENGLAND AND WALES
PUBLIC INTEREST NEWS FOUNDATION
APPLICATION FOR REGISTRATION OF PUBLIC INTEREST NEWS FOUNDATION
DECISION OF THE COMMISSION 22 SEPTEMBER 2020

Background

1. Public Interest News Foundation ("PINF"), a company limited by guarantee (incorporated on 18 November 2019) applied to be entered onto the register of charities on 6 May 2020.

Decision

2. The Commission accepted PINF is established for exclusively charitable purposes and should be entered onto the register of charities based on revised objects as follows:

The objects of the Charity are, for the public benefit:

1. to promote public understanding and knowledge of the principles and practice of investigating, reporting and disseminating Public Interest News, including relevant law, ethics, codes of conduct and practical aspects of related activities;
2. to promote citizenship and civic responsibility and encourage and facilitate informed participation and engagement by members of the public in their communities, including by supporting the provision of Public Interest News by exclusively charitable means; and
3. to promote high standards of ethical conduct and best practice in journalism and the editing and publication of news in the print and other media for the benefit of the general public, having regard to the need to act within the law and to protect both the privacy of individuals and freedom of expression;

"Public Interest News" means news and other information which is produced and disseminated to the public according to high standards of ethical conduct and best practice in journalism and which provides one or more of the following benefits to the public:

- informs members of the public about matters of relevance to their role and responsibilities as citizens;
- enables members of local communities to become aware of and understand matters of common concern to them as members of their community and which promotes their involvement and cooperation in such matters and community cohesion accordingly;
- enables members of the public to participate in an informed manner in relevant democratic processes and, as a result, supports the legitimacy of the democratic process as a whole;
- benefits the public by promoting charitable educational outcomes, such as improving public understanding of health and medical matters or the conservation of the environment;

and specifically excludes material which is simply entertaining in nature, politically motivated, biased or inaccurate, or which fails to observe a person's right to privacy.

3. The full analysis and reasons for the decision are set out below.

The issue for consideration

4. The issue to be determined in assessing the charitable status of PINF are:

- a. What are the purposes of PINF?
- b. Do those purposes fall within the descriptions of charitable purposes in section 3 of the Charities Act 2011 ("the 2011 Act")?
- c. Are those purposes for the public benefit?

The purposes of PINF

5. The objects of PINF presented to the Commission were those adopted on 18 November 2019 as follows:

The objects of the Charity are, for the public benefit:

1. to promote public understanding and knowledge of the principles and practice of investigating, reporting and disseminating Public Interest News, including relevant law, ethics, codes of conduct and practical aspects of related activities;
2. to promote active citizenship and civic responsibility and encourage and facilitate informed participation and engagement by members of the public in their communities, including by supporting the provision of Public Interest News by exclusively charitable means; and
3. to promote high standards of ethical conduct and best practice in journalism and the editing and publication of news in the print and other media for the benefit of the general public, having regard to the need to act within the law and to protect both the privacy of individuals and freedom of expression;

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- benefits the public by promoting charitable educational outcomes, such as improving public understanding of health and medical matters or the conservation of the environment;

Do those purposes fall within the descriptions of charitable purposes?

6. The Commission published a statement (27 January 2020) on when journalism can be charitable which recognises that charities can and do use journalism as a tool to further their charitable purposes and that high-quality public interest journalism can play an important role in improving lives and strengthening society. Journalism may be capable of furthering charitable purposes like the advancement of education, citizenship or community development, the arts, culture, heritage or science, or human rights. The public statement makes it clear that what matters is that a clear link can be drawn between journalism and the charitable purposes to be advanced.¹
7. The first object is capable of being charitable under the description of purposes in s. 3(1)(b) of the 2011 Act, purposes for the advancement of education. The information

¹ <https://charitycommission.blog.gov.uk/2020/01/27/read-all-about-it-when-can-journalism-be-charitable/>

received by the Commission in support of the application evidenced PINF meets the requirements of education in charity law. The purpose is directed to education of the public. In relation to advancing the education of journalists PINF confirmed it understands that charity law permits educational benefit to individuals engaged in employment, if this is incidental to the main purpose of advancing education for the public benefit. The Commission considered PINF was to some extent analogous to registered charities Media Standards Trust (1113680) and BBC Media Action (1076235) in its provision of education to journalists and media providers.

8. The second object to promote “*active citizenship*” and “*encourage and facilitate informed participation and engagement by members of the public in their communities*” has the potential to be charitable under the description of purposes in s. 3(1)(e) of the 2011 Act, purposes for the advancement of citizenship. However, the First Tier Tribunal in *Full Fact v Charity Commission*² said “*It cannot be assumed that “engagement” is always positive and capable of providing benefit. In the context of Full Fact’s objects it can be construed as encompassing a range of activities from the benign; taking an active and responsible interest in community development issues, to the overtly political; standing for office for a political party or as an independent candidate, or to the malign; organising and encouraging violent demonstrations in pursuit of social change.*”
9. Whilst there is express reference in the object to “*supporting the provision of Public Interest News by exclusively charitable means*”, this qualification cannot make a non-charitable purpose charitable. Once the objects have been established with certainty, it may then be appropriate to state that the activities that may be carried out to further the objects should be restricted in this way.³
10. The Commission noted that the definition of “Public Interest News” in the governing document necessitates one of four benefits which broadly link to charitable purposes for the advancement of education, citizenship and civic responsibility.
11. PINF confirmed the limits on public interest news as follows: “*The definition would not encompass journalistic material, which is simply entertaining in nature, because that would not generate any of the four benefits identified. Nor would it include journalism which is politically motivated, biased, inaccurate or which fails to observe a person’s right to privacy, because these are not forms of journalism which are carried out “according to high standards of ethical conduct and best practice in journalism”, as the definition require.*”
12. In the context of PINF the evidence is that this purpose is concerned with taking an active and responsible interest in community issues as opposed to engagement in political action.
13. The third object is capable of being charitable on the basis that the objects are essentially the same as those of the Independent Press Regulation Trust (1162737) which is concerned with promoting high standards in journalism and was accepted as charitable by the First Tier Tribunal (being analogous to trusts tending to promote the ethical and moral improvement of the community). The Tribunal decided that such purposes fall within s. 3 (1)(m)(i) of the 2011 Act, purposes recognised as charitable purposes under the old law (before April 2008).⁴ The Tribunal noted Lord Justice Leveson’s recommendation following a public inquiry for the establishment of an independent press regulator which was supported in Parliament. The Tribunal took into

² CA/2011/0001

³ *McGovern and Others v Attorney-General and Another* [1982] Ch 321 at 341

⁴ *Re Price* [1943] Ch 422; *Re South Place Ethical Society* [1980] 1 W.L.R. 1565

account the fact that, *“if such a regulator cannot be established by the Government and ought not to be established by the industry itself for reasons of propriety and public confidence, then the charity sector is uniquely placed to be able to offer both the mechanism and the means by which a benefit to the community as a whole can be achieved.”*⁵

14. PINF has powers to support or carry out some of the functions of a proposed Institute for Public Interest News (as recommended by the Cairncross Review⁶), being an independent body to ensure the future provision of public-interest news.
15. PINF intends to support providers through enabling networking among providers; training; complaints-handling; legal advice; ethical advice; technological advice; research; and advocacy.
16. The Commission accepted that the third object was within s. 3 (1)(m)(i) purposes recognised as charitable purposes under the old law and analogous to that which was accepted as charitable.⁷ The evidence received in support of the application for registration supported this as charitable consistent with the decision of the Tribunal in the Independent Press Regulation Trust case.

Public benefit Benefit

17. The issue of public benefit is to be decided on the evidence before the Commission. In assessing the charitable status of PINF the Commission had regard to the law relating to public benefit which was clarified by the Upper Tribunal in *Independent Schools Council v Charity Commission*.⁸
18. The Commission noted that public benefit of public interest journalism is evidenced by the House of Lords Select Committee on Communications and Digital Committee (in its inquiry into the future of journalism) and the Cairncross Review (in its report on the sustainable future for journalism).
19. The Cairncross Review commented: *“public-interest news”, has always been one of the most important functions of journalism, and brings undeniable public benefit. ... here are activities which are important public goods, essential to the preservation of an accountable democracy.”*
20. PNIF's purposes are directed towards the following benefits:
 - a. improved understanding of the meaning and use of Public Interest News by the general public;
 - b. the effective delivery of Public Interest News by Public Interest News providers (in accordance with ethical standards and best practice) for the benefit of the public; and
 - c. activities, such as regulation of the press, which safeguard high standards of balance, fairness, integrity and professionalism in the press for the public benefit.

Public

⁵ *Wilfrid Vernor-Miles and others v Charity Commission for England and Wales* (CA/2014/0022) (15 June 2015)

⁶ <https://www.gov.uk/government/publications/the-cairncross-review-a-sustainable-future-for-journalism>

⁷ *Re Price* [1943] Ch 422; *Re South Place Ethical Society* [1980] 1 W.L.R. 1565

⁸ *Independent Schools Council v Charity Commission for England and Wales* [2011] UKUT 421 (TCC)

21. PINF confirmed it aims to support public interest news providers which demonstrate their potential to have a positive impact on active citizenship and civic responsibility and that the vast majority are likely to be charities, community interest companies and not-for-profits.
22. PINF serves the public at large though the publication of material on its website.
23. The Commission accepted that private benefit to regulated news publishers was evidenced to be incidental to the public benefit.
24. The Commission was satisfied based on the evidence before it that the purposes of PINF met the public benefit requirement.

Conclusion

25. The Commission was satisfied based on the revisions to PINF's governing document that it was established for exclusively charitable purposes for the public benefit and that its operational framework evidenced sufficient rigour for it to meet the requirements of charity law. The revisions to the governing document removed reference to "*active citizenship*" and included limitations within the definition of Public Interest News which "*specifically excludes material which is simply entertaining in nature, politically motivated, biased or inaccurate, or which fails to observe a person's right to privacy.*"