

11.3.5 The Charities Act 2006 and Public Benefit

11.5.5 Public Benefit – Education

All types of charity must be able to prove that they are for the "public benefit". The Charity Commission has been making assessments of various sample charities and has looked at a number of fee charging schools in July 2009. In the case of some of the schools inspected it was decided that they needed to do more to allow children, who are unable to afford the fees, to study at the school. The Commission stressed that it had to look at all the factors when deciding upon the public benefit, such as the extent to which the school made its facilities available to the general community. However, if the school only made limited provision in the form of scholarships or bursaries to enable poor pupils to study there, that seemed to be a crucial factor in failing the public benefit requirement. For example, at one school 14% of the pupils enjoyed some form of financial support and the public benefit requirement was satisfied. In contrast, at another school only 7% of the pupils received such support and public benefit was not satisfied.

It must be stressed that these are not legally binding decisions as a ruling by the Charity Tribunal or the courts would be. The meaning of public benefit under the new Act awaits clarification by the courts. Details of these assessments can be found on the Charity Commission's website.