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Consultation on Draft Public Benefit Guidance
Charity Commission Direct
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Dear Sirs

Charity Commission Public Benefit consultation

The UK Environmental Law Association (UKELA) aims to make the law work for a better environment and to improve understanding and awareness of environmental law. UKELA's members are involved in the practice, study or formulation of Environmental Law in the UK and the European Union. It attracts both lawyers and non-lawyers and has a broad membership from the private and public sectors.

UKELA prepares advice to government with the help of its specialist working parties, covering a range of environmental law topics.

UKELA's current priorities include:

- Informing and actively influencing the broad law and policy debate on climate change including the measures to reduce greenhouse gas emissions and manage their impacts at the international, EU and domestic level
- Helping deliver more effective and efficient environmental regulation including enforcement at the EU and UK level, not lower standards nor less regulation unless the same or better outcomes will be achieved.

making the law work for a better environment www.ukela.org

UKELA works on a UK basis and seeks to ensure that best legislation and practice are achieved across the devolved jurisdictions.

Are the principles of public benefit clearly understood?

UKELA welcomes the explicit inclusion and recognition of the advancement of environmental protection or improvement as a public benefit under the Charities Act 2006. This recognises the critical importance of environmental quality as fundamental to our quality of life and of public benefit both in the UK and across the planet. Our understanding of the links between a healthy environment and human health, indeed survival, now has a clear scientific base and the public benefit of a healthy environment is clearly identifiable. The definition of public, which extends to include all of humanity, is welcome and relevant to the global nature of environmental issues. People on low incomes are particularly badly affected by environmental degradation – for example the acknowledged impacts of climate change on already poor communities in Africa and Asia, and here in the UK. The 2000 Economic and Social Research Council/Friends of the Earth report, “Environmental Justice”, found links between poverty and pollution: health problems caused by environmental degradation were greater in areas of greater deprivation. We therefore agree that the principles of public benefit are clearly understood, at least in relation to our sphere of expertise, the environment.

Identifiable Public Benefit

Whilst some aspects of environmental protection or improvement have a clear, identifiable and often measurable public benefit, this is not always the case. The consultation gives the examples of conserving and enhancing beautiful landscapes, or species conservation. Therefore it is welcome that the public benefit test includes intangible benefits – eg spiritual, moral or altruism which gives positive feelings. However, as long as the test for charities is solely with reference to humans (ie it cannot include other communities – eg natural ecosystems as beneficiaries) it is important to recognise that environmental protection or enhancement does not always deliver a direct and tangible benefit to the public.

Benefit now?

In environmental terms it is important to recognise that the benefit might be to the public in the future. Whilst this point is addressed in the guidance (“The public can include members of today’s generation as well as future generations”) it may not always be possible to benefit both. For example a charity working to address climate change issues may not have aims that deliver a public benefit today but will bring

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great benefits to future generations. It may not be possible to balance this with benefits today, as steps to address climate change may involve long term or permanent curtailments to certain activities that contribute towards people's perception of the quality of life enjoyed by those in the developed world today. Therefore clearer acknowledgement of this in the guidance would be welcomed. UKELA would qualify the statement: "benefiting future generations should not come entirely at the expense of today's" as it needs to be recognised that mitigating climate change requires expenditure now if the worst predictions of global warming are to be avoided. As climate change becomes increasingly important and with the likelihood that more charities will have aims to address it, the guidance needs to be very clear on this point and absorb the principle of generational equity (ie equal access to a good quality environment) which would not always be the same as equal access to benefit (other than peace of mind in knowing that by acting now future generations would not be irreversibly disadvantaged).

Thank you for the opportunity to contribute to this consultation.

Yours faithfully



Daniel Lawrence
UK Environmental Law Association Chairman