

Guidance to Colleges on a 'Public Value Statement'

1. Introduction

The English Colleges' Foundation Code of Governance states at 1.8 that:

The governing body is accountable to its learners, to the wider community it serves, and to other stakeholder. It should have close regard to the voice of its learners. It should agree and maintain a public value statement that describes how the College seeks to add value to the social, economic and physical well-being of the community it serves. It should take steps to ensure that information on the activities of the College is made widely available and to forge effective relationships with stakeholders.

Several Colleges have asked for guidance on what a public value/benefit statement should include. However, the fundamental principle of a public value/benefit statement is that it should reflect an individual College's approach to providing value and benefits to the wider community it serves. The diversity of the College sector is a result of individual Colleges striving to meet the specific needs of their particular communities, so each College will need to produce its own, bespoke statement that captures the distinctive nature of the public value and benefits it provides.

Many Colleges and Universities have produced public value/benefit statements that are accessible on-line. These range from the concise (four sentences) to comprehensive (five pages or more), and it is impossible and inappropriate to suggest which examples represent current 'good practice', or to produce a model template for Colleges. Against this background, a series of questions (section 2) are posed as a non-prescriptive check-list that Colleges may wish to consider; it is suggested that these are read in conjunction with the final part of this paper (section 3), which considers the current impact of charity law in this regard, the role of the Principal Regulator for exempt charities, and the current situation for HEIs, which may provide a useful context.

2. Points for consideration

It is suggested that a College, in preparing or reviewing its public value or benefit statement, may wish to have regard to the following:

- Has a College identified and defined the 'wider community' it serves, what constituencies are included within this, what the particular needs of those constituencies are that a College is striving to meet, and how it assesses its effectiveness in meeting those needs?
- In drafting its public value/benefit statement, has a College had due regard to the Charity Commission's guidance on the reporting of public benefit, and particularly to its supplementary public benefit guidance on the advancement of education? (see http://www.charity-commission.gov.uk/Charity_requirements_guidance/Charity_essentials/Public_benefit/pbeduc.aspx)
- Does the public value/benefit statement provide a clear statement of a College's commitment to demonstrating how it provides a benefit to the public in return for its charitable status?
- Does the public value/benefit statement explicitly link into a College's core mission, values, aims and objectives (with links provided to key documents to demonstrate this, as appropriate)?
- Does the public value/benefit statement capture the distinctive nature and scope of the full range of benefits provided by a College to its learners, community(s) and wider society, and can these be evidenced?
- Is the public value/benefit statement readily accessible and intelligible to all of a College's stakeholders, and is it regularly reviewed and updated by the governing body?

3. Charity law, Principal Regulators, and requirements for HEIs

The majority of Colleges are 'exempt' charities, although a number are registered charities (there is no material difference between exempt and registered charities in terms of their general operations). Exempt charities must:

- Have charitable purposes, and must apply them for the public benefit
- Comply with the general law of charity
- Have trustees (members of a governing body)

Exempt charities are exempt from registration with the Charity Commission and, until 1 June 2010, were not subject to its regulatory powers. All such charities are now exempt under the terms of Schedule 3 of the Charities Act 2011 (which consolidated the 1993 and 2006 Acts and came into effect on 14th March 2012) provided they have a Principal Regulator.

Section 3 of the 2011 Act specified twelve charitable purposes 'for the public benefit', including the 'advancement of education'; any purpose must be for the public benefit if it is to count as a charitable purpose, and is sometimes referred to as 'the public benefit test'. The Charity Commission's general principles of public benefit that currently apply to all charities are:

Principle 1: There must be an identifiable benefit or benefits

- It must be clear what the benefits are.
- The benefits must be related to the aims.
- Benefits must be balanced against any detriment or harm.

Principle 2: Benefit must be to the public, or section of the public

- The beneficiaries must be appropriate to the aims.
- Where benefit is to a section of the public, the opportunity to benefit must not be unreasonably restricted by geographical or other restrictions.
- Any private benefits must be incidental.

Following recent changes, although the law no longer presumes that the advancement of education is for the public benefit, the Charity Commission's current guidance states that 'education is widely recognised as beneficial' because it develops skills useful to both society and the person.

Under the 2011 Act, exempt charities are monitored as charities by a Principal Regulator, and are also subject to the investigation and enforcement powers of the Charity Commission, although the Commission may only exercise those powers following consultation with the Principal Regulator. The Principal Regulator for Sixth Form Colleges is the Secretary of State, Department of Education. Currently, GFE Colleges do not have a Principal Regulator; the intention is that the Secretary of State, Department of Business, Innovation and Skills, will become the Principal Regulator for GFE Colleges in Spring 2013.

HEFCE has been the Principal Regulator for all exempt charity HEIs since 1st June 2010, and through its Financial Memorandum has made reporting on public benefit a mandatory requirement for these HEIs. HEFCE required each exempt charity HEI to publish information on its own web-site by 31st January 2011 to provide a gateway to key information, which must be updated annually. In addition, HEFCE requires information to be published in a HEI's audited financial statements, including:

- A statement that the charity has had regard to the Commission's guidance on public benefit.
- A report on how the HEI has delivered its charitable purposes for the public benefit.

HEFCE requires that these items will either form part of a HEI's operating and financial review or be presented as a separate section within them.

It is unclear whether or not the appointment of a Principal Regulator for GFE Colleges in Spring 2013 (on current plans) may result in similar requirements being imposed on Colleges, but the HE sector model may prove a useful indicator of future developments.

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