

This file contains the text of the referenced document. It is made available here by kind permission of its author(s).

Charitable Public Benefit and Non-Member Attendance at BSS Conferences.

The BSS Council are now requiring any interested non-members to join the society before enrolling for the conference. There have only ever been few if any non-members register and attend so it is not a big earner for BSS but its important to know the background to why BSS have not charged in the past since this may possibly become necessary in the future.

The problem relates to the way that the Charity Commission (CC) regards fee charging educational charities. A few years ago the CC introduced the concept of Public Benefit and all charities have been required to demonstrate sufficient public benefit ever since. This requirement was quite onerous though it was very vaguely expressed. The fundamental aspect was that we should not exclude 'the poor' from any activity of the charity. Note that 'the poor' here is not what one might think of as reflecting a poor section of society, it is the CC's definition of the term. This also actually means that there must not be much, if any, financial benefit for members over and above what is available to non members. Charities are not in general able to subsidise their members from the other assets of the society for example.

Of course the fee charging charity sector has always been dominated by the independent schools who responded to this by providing or increasing their provision of bursaries. Many (possibly most) other charitably registered scientific societies like BSS (an example is the British Mass Spectrometry Society) responded by providing a limited number of free places and even subsidised accommodation at their conferences. This caused the BSS Council some alarm because it could not easily afford any such; just one free place adds significantly to everyone else's charges; but luckily the vagueness of the stated requirement, which had been drafted with schools in mind, allowed BSS some space for pleading and they held off to await the promised CC guidance.

Then two very, very small independent primary schools were inspected and even though they already offered a few free places on some bursary basis or another this was deemed insufficient by the inspectors. This caused the whole independent school sector – and BSS - considerable alarm and the BSS Council took legal advice which reinforced the fact of the on-going confusion but suggested that for safety BSS could provide some free places at their Spring conference. The Council was most reluctant to do that on the basis that BSS offer sufficient alternative free resources for 'the poor' to still benefit from their activities. Now, that wasn't a defence (then) but they risked it because at the same time they announced that BSS would permit non-members to attend their conferences at the same rate as members. In that way they could (and did) add this fact to their Public Benefit statement which has to be submitted to the CC each year.

Then in May 2011 the Independent Schools Council was granted a judicial review of the Public Benefit Requirement. The decision was broadly in the schools favour with parts of the CC requirements being found to be wrong. The CC then went back to think again and came out with revised guidance for public consultation. That duly finished and the CC promised to issue the new guidance by the early part of 2013!

It seems that there will need to be more than a *de minimis* or token provision for the 'poor' but it does look as if more benefit in one area **can** be used to offset less benefit in another, especially where the nature of the charitable activity demands it. This nicely confirms the Society's earlier stance. However the CC is maintaining that bursaries (for example) for only 1% of pupils in a school is way too low. If that 'rule' were to be applied to conference attendance BSS would still have a problem.

The outcome is 'eagerly' awaited!