

**George Brock, Chairman, PBJRC Trust, Public Benefit Journalism
Research Centre—written evidence (FOJ0047)**

**House of Lords Communications and Digital Committee inquiry into the Future
of Journalism**

Summary of the evidence

1. Our evidence concerns the treatment of journalism under charity law and the difficulties encountered by journalistic organisations attempting to be recognised as charities.
2. The PBJRC has been formed by lawyers, journalists and academics to conduct research into this issue and to mount discussions on the subject.
3. We argue that the problems afflicting journalism at the moment – greatly exacerbated by the coronavirus crisis – require imaginative and far-sighted solutions. A new treatment of journalism applications for charity registration is one such solution, which would enable potentially transformative new sources of funding and innovation – especially for start-ups and local journalism.
4. We have treated the issue in some detail because although there has been specialist debate in recent years, there have been few attempts to lay out not only why such a change is important but also how it can be done.
5. Parallel debates on the criteria for charitable support for journalism have begun elsewhere across the world. A shift of policy by the government and/or the Charity Commission would set the agenda well beyond Britain.
6. This does not require a change in the law. The Charity Commission is allowed to adapt its guidelines to changing circumstances. Currently its decisions on charity registration applications by newsrooms are unjustifiably restrictive.
7. We explain in detail the various routes by which this change could be effected under the existing law.
8. Not all journalism is suitable for charity registration even if policy is adjusted as we think that evidence recommends. This submission is concerned with journalism which benefits the public.
9. We address in operational detail the question of how charitable journalistic organisations are to be distinguished from those which do not qualify.
10. An appendix lays out a draft of the kind of editorial code of conduct which would be required to keep a charitable journalistic organisation within the rules.

1 INTRODUCTION

- 1.1 The following submission is in response to the Committee's call for evidence on the future of journalism. We explain how a more constructive interpretation of charity law than is currently applied to journalism organisations is possible and how this would be of great help to providers of public benefit journalism and to the communities they serve.

We believe that this approach (described in detail below) would be both innovative and will encourage creative journalism start-ups, as well as invention in the structuring and output of existing journalistic enterprises enabling them to survive and flourish. It is therefore of great potential importance to journalism's future. In particular we are answering the second of the five questions listed in the Committee's brief: 'How can innovation and collaboration help news organisations to maintain sustainable business models?'

We hope that the Committee will urge both the Charity Commission and the government to help journalism which provides public benefit be recognised by charity law in a more far-reaching and constructive way. This submission explains not only why this would be of vital importance to society but also how charity law can support this.

- 1.2 The crisis afflicting journalism has been very largely created by the collapse of the business model which sustained printed news and opinion. Despite illegal and unethical behaviour by some journalists and some recent increase in 'news avoidance', demand for news has not reduced at anything like the same rate as advertising revenue. Online technology, by multiplying means of communication, has diverted the advertising income which has been the platform for quality journalism.

The full consequences of the coronavirus pandemic are not yet clear. But the disruption caused by the disease is already greatly magnifying journalism's difficulties. As demand for reliable news grows in the emergency, advertising is shrinking rapidly. National daily newspapers are much reduced in content. The need for innovative and imaginative support for journalism has never been greater than it is now. This has been recognised in a number of ways by the government including its introduction of business rate relief for local newspapers during the coronavirus crisis¹ and the classification of journalists as key workers and journalism as an essential service. Whilst not nearly sufficient to save the industry from collapse, these measures are indicative that the government recognises that the industry has significant public benefit. A more flexible approach to charity registration is both urgent and potentially transformative, at the least, for start-ups and local journalism in Britain.

- 1.3 The Public Benefit Journalism Research Centre (PBJRC) has been formed by a group of lawyers, journalists and academics who are concerned about the practical difficulties experienced by journalism organisations – often small but promising – which wish to register as charities in order to be in the best position to attract philanthropic funding. A PBJRC trust has been formed in order to finance research into the issue. Several members of the group have direct experience of charity registration applications for journalistic organisations (such as the Bureau of Investigative Journalism) either as lawyers, board members or editors. This submission is a collective one by the PBJRC. Several of those involved also plan to submit evidence to the Committee as individuals. Members

¹ <https://www.gov.uk/apply-for-business-rate-relief/local-newspaper-relief>

of the group also gave evidence to the Cairncross inquiry. The PBJRC trustees and advisory committee members are listed in Appendix 2 (see page 25).

1.4 Aside from the introduction above, this submission is in three parts:

- Background and recent history of journalism and charity law;
- The Charity Commission's approach and how it might change;
- Editorial policy suitable for charitable journalism organisations.

Two appendices are attached:

- A sample editorial 'protocol' for a charitable journalism organisation
- A list of the trustees and advisory committee of the PBJRC

2 RECENT HISTORY OF JOURNALISM AND CHARITY LAW

2.1 Advocates for public benefit and public interest journalism, including the authors of this submission, have been actively calling for attention to this issue for almost a decade.² This committee in its 2012 inquiry into the future of investigative journalism recommended that the then government reconsider reform of charity law in relation to the funding of journalism, and for the Charity Commission to provide guidelines and clarity to effect this.

One group observed in evidence to the Leveson Inquiry in 2012 that journalism might be enriched by a stronger non-profit sector but 'there are limited opportunities here for organisations that wish to develop a viable form of non-profit journalism'. A study from Oxford and Yale universities in 2016 pointed out that 'charitable status would bring reputational value for journalism by ensuring best practice: a charity's objects could be designed in such a way to safeguard the quality and standards of its work.'

At the time there was no direct or public response to these recommendations by either the Government or the Commission. Discussions continued among journalists, lawyers, academics, and representatives of the third sector, leading to, for example, the formation of our own initiative, the Public Benefit Journalism Research Centre.

2.2 More recently and encouragingly, our ideas – and those of a wider network – were picked up by the Cairncross Review into a sustainable future for journalism. Dame Frances Cairncross recommended in 2019 that government 'gives priority to exploring the development of a form of tax relief, ideally under the Charities Act but if necessary along the lines of the Creative Sector reliefs, to support public-interest journalism'.

However, the direct response from the previous Secretary of State for Digital, Culture, Media and Sport, in February 2020, was again disappointing. She indicated that while the Government accepted that some forms of journalism may

² See, for example: Levy, D.A.L. and Picard, R.G. eds., 2011. *Is there a better structure for the news providers? The potential in charitable and trust ownership*. Oxford: Reuters Institute for the Study of Journalism; Heawood, J., McCarthy, R., Simanowitz, L. and Overton, I., 2012. *Good News? A report by the Advisory Group on Journalism & Charitable Status - representation to the Leveson Inquiry*; University of Westminster, 2014. *Discussion seminar: charitable initiatives for journalism and media - summary*. [online] Available at: <http://www.mediaplurality.com/wp-content/uploads/2014/04/Charity-seminar-summary-June-2014_updated.pdf>

be registered as charitable, it did not express support for this development, nor intend to take any significant action in this area.

The existing law undoubtedly provides a framework for some forms of journalism to be recognised as charitable. But currently this is limited. To have a meaningful effect would require the Charity Commission to take an 'imaginative and constructive' approach to the law, in accordance with its stated policy, as this submission explains. So far it has not done this. (The alternative – slower and more laborious - would be for the Government to legislate to make express provision for charitable journalism.) We believe that previous failures to act have created an unprecedented opportunity now to help news organisations to develop and maintain sustainable business models.

- 2.3 Charity law specialists Bates Wells LLP and Stone King LLP, who have contributed to this submission, have substantial experience of securing charitable status for organisations which are established to provide public benefit journalism (as defined in this submission, see p 5) – varieties of journalism which ought to be clearly recognisable as pursuing charitable purposes and capable of obtaining charitable status. In their experience, the Charity Commission has been reluctant to accept either that the activities of the organisations advance charitable purposes, or that the activities provide the necessary public benefit.

For example, Baylis Media publishes the *Maidenhead Advertiser* and a number of other local newspapers in the Maidenhead, Slough and Windsor areas. Please refer to Baylis Media's own submission to the Committee. These newspapers provide indispensable information to their communities.

As Baylis Media's submission confirms, it has explored the possibility of obtaining charitable status with the Charity Commission. Despite the obvious educational, community, citizenship and other benefits provided by the newspapers, the Commission's response implied that the path to registration would be difficult, lengthy, expensive and offered little prospect of success. In our experience, this is typical of the response received by applicants in this area. Unless the Commission recognises that a more constructive approach is supported by the law, it seems that interested organisations will be dissuaded from pursuing or achieving charitable status.

- 2.4 As the Charity Commission says in the blogpost³ that accompanied the Government's response to the Cairncross Review, there are examples of journalism being supported through charitable organisations. Those examples are also detailed, along with others, in a report by the Reuters Institute for the Study of Journalism (RISJ) in 2016.⁴ But that report also shows that several of the organisations featured struggled to fit their activities within the constraints of current approach to charity law. Again, the path to becoming a charity was time-consuming, expensive and unnecessarily restrictive as we explain below.

The charity Full Fact, an independent fact-checking organization that provides tools, advice and information to allow people to assess claims heard about public issues, was originally rejected twice by the Charity Commission before successfully securing charitable status after a third application. Charitable status

³ <https://charitycommission.blog.gov.uk/2020/01/27/read-all-about-it-when-can-journalism-be-charitable/>

⁴ Picard, R.G., Belair-Gagnon, V. and Ranchordás, S., 2016. *The impact of charity and tax law/regulation on not-for-profit news organisations*. Reuters Institute for the Study of Journalism, University of Oxford; Information Society Project, Yale Law School. Available at: <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2754832>

was granted following the revision of the organisation's objects from both the advancement of citizenship and civic responsibility and the advancement of education to just the advancement of education for public benefit.

Similarly, the Bureau of Investigative Journalism (TBIJ), established to deliver high quality investigative journalism (which is demonstrably of significant public benefit) was rejected twice. In its third application, it changed its approach by setting up a charitable trust, distinct from the TBIJ, that was successfully recognised. However, this model does not provide TBIJ itself with the full benefits of charitable funding.

Both TBIJ and Full Fact are limited to 'educational' purposes, the implications of which are considered at para 3.4 below. If TBIJ, for example, wishes to apply for charitable funding from an external funder, it must – each time - establish with the trustees whether the specific activity is charitable (educational), creating a labour-intensive process and a restricted outcome, as we explain below. We argue that the current system is discouraging and cumbersome for applicants that should be legally recognised as charities engaged in public benefit journalism, and that it unnecessarily inhibits the development of charity-supported journalism.

- 2.5 One of the main benefits of registration is access to funding from charitable foundations who wish to give to charities, rather than to non-charitable not-for-profit organisations. Despite the cumbersome nature of the structure it has been required to adopt and the unnecessary restrictions on the activities which it can fund by these means, TBIJ has directly benefitted from charitable registration for its Trust, in this way; in the last 12 months, 10 per cent of its funding has derived from charitable sources, which would not have been possible without some form of charitable status.

Charitable giving is not confined to philanthropic foundations. TBIJ has also developed Bureau Local, which works to help and coordinate investigative journalism in local and community newsrooms across the UK. TBIJ's Managing Editor says: 'I would argue that particularly at a local level it is low level giving from the wider public that could potentially be a valuable contribution to sustainability. Charitable status would make it much easier to immediately gain the public's trust. Sponsored events, local sponsored fundraising initiatives, local corporate sponsorship are usually limited to charitable giving. This is the type of public generosity that local newspapers in particular would benefit from'.

Full Fact has been able to grow its service and staff significantly in the period since achieving charitable status. As a regulated charity, it has been able to establish a strong, reliable reputation for its organisation, which people trust as service users, or as charitable donors. It has, Full Fact's director says, a daily effect on how the charity operates and staff are trained in its charitable principles and guidelines. As a result of this strengthened reputation, Full Fact has been able to forge close working relationships with major UK broadcasters who can trust its non-partisan approach to fact checking, and corporations who are willing to collaborate or fund a recognised charity. Recently, it was listed as a trusted source of information by HM Government in its guidance on disinformation (<https://sharechecklist.gov.uk/>).

In terms of the direct financial benefit, Full Fact is able to receive an extra 25% in gift-aid for eligible donations made by UK tax-payers; if £200,000 is donated annually, an additional £50,000 can be added to this (at the very least as higher rate tax payers can claim a higher gift aid rate). Further, the charity says, donors are more likely to give to a charity than a non-charity. As of April 2020, over

1,500 individuals were registered as monthly donors to Full Fact. Charitable status allows the organisation to use a variety of online fundraising tools, including Facebook Giving and Virgin Money Giving, to increase their donations.

Charitable foundation, as well as corporate, funding is often restricted to charities, another major source of income for Full Fact. In 2019, Full Fact's income from charitable trusts and foundations totalled over £625,000, 34% of their total income. Charitable foundations have supported Full Fact's work in recognition of the alignment with their own aims and objectives.

Charity registration has also enabled the organisation to receive funding from international funders. For example, it was able to secure US\$475,000 per year from the philanthropic organisation Luminate, having shown equivalency to a US 501(c)(3) registered non-profit organisation – by virtue of being a charity registered in the UK. More recently, it has been awarded US\$350,000, along with Spanish organisation Maldita.es, to fact check online information about the coronavirus outbreak. Full Fact attributes its ability to secure rapid/emergency funding such as this to its charitable status, through which it is held accountable to users and funders.

Charitable relief of 80% from UK business rates is another positive outcome; this saves the charity tens of thousands of pounds annually. There are further benefits in kind, such as, access to: certain office accommodation that is limited to charities; Google's offer of free online advertising for charities to a value of US\$10,000 per month; free provision or large discounts on Google and Microsoft products and other technological services. The latter is particularly beneficial for a charity providing journalism services based on cutting edge AI tools.

Public interest journalism is in decline across the UK as commercial publishers have dramatically cut the numbers of reporters and withdrawn from traditional 'public interest' reporting and investigative work over the past decade.⁵ The result is a lack of systematic scrutiny of public institutions such as the courts, local councils, and public service providers, as well as other commercial and non-commercial organisations that wield public power. Although initiatives such as the BBC's Local Democracy Reporters scheme have been instituted to help plug the gap in the local 'democratic deficit', they are far from a complete solution and indeed have thus far prioritised support for traditional and commercial news media organisations.

Improving the conditions for philanthropic support for 'public benefit' journalism is an equally important response. For those who struggle to provide public benefit news and for the communities which are inadequately served by providers, it is difficult to accept the implication in the Government's Cairncross response that because not all forms of journalism are suitable for charitable status, that no action is required.

2.6 The evidence from countries, such as the U.S., where journalism supported by philanthropy is well established and effective at a far larger scale than in the UK⁶,

⁵ See, for example: House of Lords Select Committee on Communications, 2012, HL Paper 256, *The future of investigative journalism*; Ramsay, G. & Moore, M., 2016, *Monopolising local news: Is there an emerging local democratic deficit in the UK due to the decline of local newspapers?* King's College London, London, UK; Barnett, S. and Townend, J., 2015. Plurality, Policy and the Local. *Journalism Practice*, 9(3), pp.332–349.

⁶ See, for example: Birnbauer, B., 2017. Philanthropy is funding serious journalism in the US, it could work for Australia too. *The Conversation*. Available at: <<http://theconversation.com/philanthropy-is-funding-serious-journalism-in-the-us-it-could-work-for-australia-too-79349>>

suggests that a more flexible approach to the charitable registration of public benefit journalism, would be a powerful support to news and opinion in the UK.

In a recent article, Nicolas Lemann, a previous head of the Columbia Journalism School in New York, wrote:

'The closest we have to a systemic solution to the collapse of {high quality] journalism is the impressive growth from a very low base of non-profit news organizations that focus on journalism of high public value rather than try to replicate the entire range of a traditional newspaper. These include: investigative reporting organizations like ProPublica and the Center for Investigative Reporting; single-topic organizations like InsideClimateNews (on the environment), the Trace (on guns); and The Marshall Project (on criminal justice); and local news websites like *Voice of San Diego* and *The Texas Tribune*. One big-city mainstream newspaper *The Salt Lake Tribune*, recently became non-profit and another *The Philadelphia Inquirer* is now owned by a non-profit. Non-profits like Report for America, Ground Truth and the American Journalism Project place paid-for reporters in newsrooms all over the country.... The total resources this sector receives seem to be on the order of only \$300 million a year. It has about three thousand editorial employees nationwide'.⁷

The government's response to the Cairncross review, notes the existence of this in the USA but does not give a coherent reason as to why the same approach would not be successful in the UK. Debates about the best criteria for establishing charity status for journalistic organisations have also taken begun recently in France, Germany and Canada. A change of policy in the UK might well set the agenda for similar moves in the rest of the world.

3 THE CHARITY COMMISSION'S APPROACH AND HOW IT MIGHT CHANGE

3.1 In February 2019, the Cairncross inquiry report recommended that the government should explore 'the development of a form of tax relief, ideally through the Charities Act... to support public interest journalism'.

The public position of the Charity Commission⁸ is:

- 'high quality, public interest journalism plays an important role';
- 'a number of registered charities are engaged in journalism';
- 'the legal tests [which] must be met are:
 - what are the purposes and are they charitable?
 - are they for the public benefit?'
- 'relevant descriptions of purposes include the advancement of:
 - education;
 - arts, culture, heritage, or science;
 - citizenship or community development;
 - and others'.

⁷ <https://www.nybooks.com/articles/2020/02/27/can-journalism-be-saved/>

⁸ Speech to the Charity Law Association, 3 March 2020, John Maton, Head of Charitable Status.

- 3.2 Given this starting point, the Charity Commission should be encouraged to take a forward-looking and imaginative approach to the recognition of charitable journalism. The Commission is on record as saying that it takes a 'constructive' role in recognising new charitable purposes.

In this submission we use the following (working) definition of public benefit journalism:

'Public benefit journalism means journalism which is produced for the benefit of the general public, in accordance with high ethical and quality standards and which generates reliable, objective, politically neutral, fact-based information and enables members of the public to be informed and engaged citizens.'⁹

Clearly, many forms of journalism (sensationalist or politically-coloured journalism, for example) would not - and should not - be covered by this definition. This submission concerns only journalism which would be within this definition.

The Charity Commission accepts that it has the power to recognise new charitable purposes. This means in principle that it could recognise the advancement of public benefit journalism as a charitable purpose, and therefore register an organisation established for charitable public benefit journalism purposes.

- 3.3 There is a wide range of existing purposes which might be relevant, including purposes of 'general public utility' and 'purposes beneficial to the community'. But in practice, the Commission finds this a problematic area.¹⁰ This is because of difficulties, which are, to a degree, self-imposed:

- 1) the Commission exercises an unnecessarily restrictive interpretation of the law in several key areas, which we identify below; and
- 2) the Commission takes an unnecessarily sceptical and restrictive approach to applications for registration from journalistic organisations, contrary to its stated policy on recognising new charitable purposes.

The Charity Commission has a statutory function to determine which organisations are and are not charities.¹¹ The law is clear that the definition of what is charitable changes over time. The courts, which have an overlapping jurisdiction with the Charity Commission, have stated that the law must change as ideas change¹².

The Charity Commission acknowledges its function and responsibility to recognise new charitable purposes. Its policy document 'Recognising New Charitable Purposes'¹³ (a good summary of the applicable law) says:

⁹ Contributors to this submission are working on developing a more refined definition, but this definition should be sufficiently clear and succinct for present purposes.

¹⁰ This is also the experience of the contributors to this submission with applications submitted to the Commission for registration.

¹¹ S.15(1) Charities Act 2011

¹² IRC v McMullen [1981] 1 AC, 15E and Scottish Burial Reform and Cremation Society [1968] AC 138 at 154E (Lord Wilberforce: the Courts – and therefore the Charity Commission – 'have to keep the law as to charities moving according as new ideas arise....')

¹³ Recognising New Charitable Purposes, RR1A, published October 2001, para 23

'The Charity Commission will take a constructive approach to adapting the concept of charity to meet constantly evolving social needs and new ideas through which those needs can be met. Acting within the legal framework which governs the recognition of new charitable purposes, we would aim to act constructively and imaginatively.'

In our submission, there is a clear case that public benefit journalism is recognisable as a charitable purpose in its own right. It is open to the Charity Commission to recognise this and to register an applicant with public benefit journalism purposes, not just educational (or other, restricted purposes). The evidence is that this would be the most beneficial outcome for public benefit journalism providers and the communities they serve.

Charity law develops through the Courts finding analogies with already-recognised purposes and through the Charity Commission recognising these (in anticipation of the courts' findings).¹⁴ In other words, the Charity Commission is able (and has a duty) to recognise charitable purposes which are different to, but analogous with, existing recognised charitable purposes. In the experience of contributors to this submission, the Charity Commission has not to date been sufficiently constructive in recognising that public benefit journalism is analogous to existing charitable purposes.

Section 3, Charities Act 2011 sets out 13 purposes that are recognised as charitable under English charity law. These include familiar charitable purposes such as the relief of poverty and the advancement of health. The 13th purpose however, is intended to allow charity law to develop new purposes, within the existing law. It expressly recognises as charitable any purpose which is not included in the first 12 purposes but which may reasonably be regarded as analogous to an existing recognised charitable purpose.

Existing purposes include a wide range such as 'general public utility' or 'purposes beneficial to the community'. The Commission has previously recognised new purposes under these headings, by analogy, as the law permits. These offer possible analogies for the recognition of public benefit journalism.

For example:

- the public utility in consumers being provided with reliable information about products was recognised by the Charity Commission when it registered the Consumers' Association as charitable - this would provide an obvious analogy with promoting information useful to members of the public as citizens through public benefit journalism;¹⁵
- the public utility in providing the general public with encyclopedic information via Wikipedia has been recognised as charitable¹⁶, by analogy to a public

¹⁴ S.3(1)(m) Charities Act

¹⁵ The Consumers Co [1985] Ch Comm rep 12-14 paras 28-32 with objects '*to promote in the UK in a manner beneficial to the community and for the public benefit (a) the maintenance of proper standards for goods and services available to the public as consumers; (b) the maintenance and improvement of the quality and availability of such goods and services.*' ; with 'the public as consumers' describing the goods and services, not the beneficiaries, who were the public, and 'proper' meaning from the standpoint of consumers; again, the analogy with the public interest in high quality Public Interest News is clear (albeit that the latter is a decision of the Commission, not a legal precedent). Re Besterman's Will Trusts (1980) Times 22 January, repeated in McGovern v AG [1982] Ch 321.

¹⁶ Registered charity number 1144513

reading room – there is an obvious parallel between the wide range of information provided by journalism, and charitable facilities such as Wikipedia which provide encyclopedic information;

- both the Courts and the Charity Commission have recognised that ‘research into and dissemination of information useful to the community’ is charitable. This is another obvious area in which an analogy could be drawn to public benefit journalism.¹⁷

In addition, there are a wide range of established cases in which the promotion of high standards in professions, for the benefit of the general public, is recognised as charitable¹⁸. Organisations which fall within this definition would have to meet (and therefore promote) high standards in journalism – see the definition public benefit journalism set out in paragraph 3.2 and the suggested editorial policy contained in Appendix 1. Such organisations would be analogous with this range of established cases.

The recent decision of the First Tier Tribunal in relation to the Independent Press Regulation Trust (IPRT)¹⁹ further illustrates that the promotion of high ethical standards in news publishing is capable of being recognised as charitable by analogy with the existing recognized charitable purpose of promoting the ethical and moral improvement of the community.²⁰ There is an obvious analogy with promoting the ethical health of the community through the provision of information which is useful to the members of the community.

The evidence, including IPRT’s unsuccessful application for registration, is that the Charity Commission has been reluctant to find analogies in these or any other areas and to apply them so as to allow it to recognise and register public benefit journalism charities – despite having the legal means (and duty) to do so. We ask the Committee to consider this.

The Commission has accepted, in principle, that existing charitable purposes are sufficient to enable journalism organisations to achieve recognition as charities. However, in practice, this relies on the Commission taking its stated constructive and imaginative approach when it comes to considering whether applicants for charitable status should be registered. We ask the Committee to consider this.

Below, we identify several other areas in which the Commission has not so far taken a sufficiently far-sighted approach to enable providers of public benefit journalism to be registered as charities under other, existing charitable purposes, without undue restrictions.

3.4 **Advancing education**

The limited number of registered charities which the Charity Commission has to date acknowledged are established for journalistic purposes are educational charities in law. The effect of this is intrinsically limiting and creates difficulties for the Charity Commission as well as for any applicant.

¹⁷ Re Besterman’s Will Trusts (1980) Times 22 January, repeated in McGovern v AG [1982] Ch 321.

¹⁸ ‘Clerkenwell Green’ (‘IRC v White’ [1980] TR 155

¹⁹ Wilfred Vernor-Myles and others v Charity Commission, 15 June 2015, Appeal no: CA/2014/0022

²⁰ As accepted by the Commission in its Public Concern at Work decision in 1994

One reason for this is that charity law requires educational charities to promote content which has sufficient educational 'merit', in other words, have an intrinsic, educational quality which must be objectively demonstrable. Despite case law and previous Charity Commission decisions which make clear that there is flexibility in this area²¹, it is not applicants' experience that the Commission exercises this flexibility in relation to charitable journalism. A legal principle has been applied which has the effect that the provision of information alone does not meet the threshold of educational merit to be recognised as charitable. And yet the provision of information, for the benefit of the public, is a good example of important journalism (that is currently under threat across the country).

This approach to accepting that content provides educational value in the charitable journalism context causes difficulties when:

- Journalistic reporting is viewed narrowly, in terms of individual items of news or other fact-based information. Individually, the educational benefit might not be immediately obvious, nor interesting to every reader, but viewed collectively, as information which describes and informs a community, the value is obvious.

For example, the educational benefit of individual news items informing readers of local births, deaths and weddings, providing local theatre or cinema listings, traffic reports or reporting local sporting events, school fairs or the activities of local businesses may not be obvious. Individually, these may appear trivial items whose educational value is hard to measure, but collectively this information is of huge value and is demonstratively vital to local communities²². This becomes even more evident if we include local information about national problems such as severe weather events or the local impact of a national health epidemic, or reporting on local planning decisions affecting whole communities.

- Journalistic reporting often delivers content whose educational value is not immediately apparent (and some of the beneficial effects of readers being provided with journalistic information might take many years to become apparent).

For example, the benefit to the public in being made aware of the activities of a local youth centre, might only become obvious when it is threatened with closure.

- Journalistic content might need to include non-educational content among other more educational content in order to make it financially sustainable.

For example, many local news papers depend upon advertising revenue to support cost-intensive and potentially charitable activities such as reporting, fact-checking and other editorial safeguards. There is no reason why revenue-generating content could not be dealt with (legally properly and in way which should be acceptable to the Commission) in the same way that other, registered charities carry out non-charitable, taxable trading.

²¹ See, for example, the McMullen case mentioned earlier and the Charity Commission's Millenium College decision.

²² For example, Fairhead, R., 'BBC Trust Chairman calls on BBC and wider news sector to work together to avert a democratic deficit in local news reporting', BBC Trust, 2015, http://www.bbc.co.uk/bbctrust/news/speeches/2015/local_news_reporting and Dr Rachel Howells; Cardiff School of Journalism, Media and Cultural Studies: PhD paper: 'Journey to the centre of a news black hole: examining the democratic deficit in a town with no newspaper' <https://orca.cf.ac.uk/87313/1/2016howellsrphd.pdf>

- 3.5 The Charity Commission states that it 'will take a constructive approach to adapting the concept of charity to meet constantly evolving social needs and new ideas through which those needs can be met'. In order for public benefit journalism providers to be recognised as educational charities, the Commission would need to:
- a. recognise that public benefit journalistic activities have sufficient 'merit', when viewed collectively, 'in the round' and with a long-term view;
 - b. recognise that it may be necessary for public benefit journalism to be provided alongside non-charitable, revenue-generating content (carried out by charities in the conventional way).

Doing so would mean that a number of journalism organisations seeking recognition as charities could do so within the existing charitable purpose of advancing education. We ask the Committee to consider this.

3.6 **Advancing citizenship**

By definition, public benefit journalism would involve the production, to high editorial and ethical standards, of reliable, objective, non-partisan (i.e. politically neutral) information which is of use to members of the general public as citizens.

There is a connection between journalistic activities of this sort and the promotion of citizenship (the state of being an active citizen). Having accessible, accurate, and useful information is, we suggest, a critical ingredient in enabling individuals to participate in society – in other words to be good citizens.

In 2009 Ofcom said in its report on 'Regional and Local Media': 'The evidence... suggests that local and regional media are critical to informed and active citizenship...'. The House of Lords Select Committee on Citizenship and Civic Engagement, in its report *Citizenship and Civic Engagement in the 21st Century* (Report of Session 2017-2019) states: 'Active citizenship is too often defined purely in terms of volunteering, social action or learning facts, and too rarely in terms of learning about and practising democracy in the sense of political engagement and democratic participation.'²³

The word 'political' is not used here in the sense of promoting any particular political outlook. The Lords Committee said that 'Citizens should be taking an active part not only in the process of selecting who governs them but also in the continuing conversation on how they should be governed.' In order for members of the public to participate as active citizens in democratic processes (and in other aspects of citizenship), it is obviously necessary that they are sufficiently informed to do so.

Meeting this information need, through the provision of reliable, objective, non-partisan news and similar information, which is produced to high editorial and ethical standards, is therefore an activity which enables and indeed advances citizenship.

- 3.7 The Charities Act 2011 includes 'The advancement of citizenship or community development' in its list of descriptions of charitable purposes.²⁴ It is therefore

²³ Page 10, *Citizenship and Civic Engagement in the 21st Century*, House of Lords Select Committee on Citizenship and Civic Engagement Report of Session 2017–19

²⁴ <https://publications.parliament.uk/pa/ld201719/ldselect/ldcitizen/118/118.pdf>
S.3(1)(e) Charities Act 2011

open to the Charity Commission to register a public benefit journalism charity which advances citizenship through producing public benefit journalism.

However, the Charity Commission states that it has decided that 'the promotion of civic responsibility and engagement' (the Commission's emphasis) is not charitable, in the context of a fact-checking charity which it accepted was educational²⁵. Clearly, this is one of the key ways in which public benefit journalism could advance citizenship.

There appears to be some inconsistency here, because in other (non-journalistic) cases, the Commission has accepted that organisations which are involved in promoting civic engagement are charitable. Examples include the Citizenship Foundation²⁶ and the Project For Modern Democracy,²⁷ whose purposes include 'encouraging and facilitating participation and engagement by the public in government and democratic decision making processes with an intended outcome of enabling people develop their capacities, help meet their needs and participate more fully in society.'

The Commission's position appears to be that journalism organisations must pass a more stringent test. Despite the scepticism about civic engagement referred to above, the Charity Commission's Head of Legal Services has stated in her recent blog in response to the Cairncross Review '...if your news organisation is set up to advance citizenship or community development, the Commission would expect you to be able to show it how journalism translates into public participation and engagement, either in terms of decision making or participation in democratic processes; or how public benefit is demonstrated in terms of the difference your organisation makes to individual citizens.'²⁸

Whilst the Commission's apparent openness to considering applications of this sort is welcome, it is not sufficient. As we have explained earlier in this submission, it does not translate into preparedness to accept the evidence available. It may be very difficult for a local newspaper, for example, to demonstrate how its work results in greater democratic engagement, when it has supported its local community for 150 years, and when the benefit it provides may only be demonstrable after it has gone.

Our experience (referred to elsewhere in this submission) and that of others, including Full Fact and Baylis Media is that the Charity Commission's requirement for evidence is set at unrealistically high levels. Without polling data, for example, which directly measures involvement linked to specific journalistic activities, it may be difficult to demonstrate that the journalism provided translates into engagement with democratic processes. The difficulties are likely to be particularly acute for smaller organisations and those, like local newspapers or those involved in investigative journalism, who may provide journalistic output in very diverse subject areas.

3.8 The advancement of citizenship and associated benefits to the community are inherently difficult to prove – however intuitively obvious they may be. It should

²⁵ Referring to the Charity Commission's decision to register charity Full Fact, and repeated in a talk given to the Charity Law Association by the Charity Commission on 3 March 2020.

²⁶ Registered charity 801360; with charitable objects '*to promote good citizenships for the public benefit and for that purpose to advance the active understanding of law, politics, sociology, religion and morals, commerce, industry, the arts, ecology and other subjects in so far as likely to be conducive to good citizenship.*'

²⁷ Registered charity 1154924

²⁸ <https://charitycommission.blog.gov.uk/2020/01/27/read-all-about-it-when-can-journalism-be-charitable/>

not be necessary for applicants to demonstrate this to a high standard, because the law does not require tangible evidence when the charitable benefit of an activity is obvious and generally accepted.

The Commission should begin from the generally accepted standpoint that public benefit journalism supports citizenship and community development. That is the evidence of the academics, regulators and House of Lords Committees referred to above, all of whom agree that information provided by news providers for the public benefit is necessary for the healthy functioning of communities, citizenship and democracy. We ask the Committee to consider this.

4 EDITORIAL REQUIREMENTS OF CHARITABLE STATUS

4.1 Thus far this submission has provided evidence that quality journalism could be enhanced and protected by a constructive interpretation of existing charity law. The following section addresses the editorial obligations which this would imply and how they might be established, implemented and verified. We base these points on the following assumptions:

- The Charity Commission is right to acknowledge that:
 - charitable journalism is possible within existing charity law, on the principles applicable to all charities; and
 - a significant number of the 12 specific categories of charitable purposes under the S.3 Charities Act 2011 could, if interpreted flexibly by the Charity Commission, encompass activities of charitable journalism.
- In addition, the Commission (or the Charity Tribunal or court) has statutory discretion to identify public interest/benefit journalism within the general 13th category of charitable purposes under the Charities Act 2011 as 'analogous to, or within the spirit of, existing charitable purpose'. The evidence is that this would be the most beneficial outcome for charitable benefit providers and the communities they serve, because of the inherent restrictions on other purposes explained in section 3 above.
- This statutory discretion ought to be particularly relevant in the changed circumstances of 2020 which have placed high quality, public interest, public benefit and public service journalism under existential threat.
- The case of the registered charity Full Fact (which was registered as an educational charity), this would mean following the core principles of independence; objectivity; impartiality; and balance – to which, should be added, overarching charity law principles discussed below in paragraph 4.2. In relation to journalism we recognise that the Commission will want to see evidence of high-quality professional standards in the journalistic output and this is discussed further below in Appendix 1.
- To obtain recognition as a charity, journalism organisations (in accordance with Commission Guidance publication CC9 on 'Campaigning and Political Activity') could not have any political purpose, or be politically partisan, in contrast to the legitimate charitable activity of using political means to pursue charitable purposes.

4.2 **How may a charitable journalism organisation be assured and assure the Charity Commission that it will operate exclusively in accordance with its charitable purposes?**

- a. A charitable journalism organisation, as with any charity, must, constitutionally:
 - have exclusively charitable constitutional objects/purposes;
 - be in a non-profit distributing form; and
 - restrict any private benefit to board members, or company members, which are not consistent with being exclusively for the public benefit.
- b. An organisation in constitutional charitable form, must 'be for the public benefit' and undertake exclusively charitable activities in promoting its exclusively charitable purposes.
- c. To secure registered charitable status, with the Commission, a charitable journalism organisation, as with any charity, must demonstrate it is for the public benefit and credibly plans to undertake exclusively charitable activities.
- d. In the context of a charitable journalism organisation, this means, in practice, having a credible and realistic editorial policy and operating protocol securely entrenching the principles of: independence; objectivity; impartiality; balance; and accountability and transparency, including to ensure the organisation operates without any political purpose, or partisanship.
- e. This is analogous to many types of charity which need to distinguish, by formal governance and operational policy, the fundamental division, in their fields of operation, between activity which is, under Charity Law, for the public benefit and charitable and activity that extends beyond what is, under Charity Law, recognised as for the public benefit and charitable. For example,
 - international development organisations aiding poor people by supporting them in developing business activity need a protocol to define when such activity extends into supporting private business;
 - human rights organisations need to define their activity by reference to internationally recognised codes;
 - non-mainstream education, health organisations and religious organisations need to demonstrate a reasonably established pedigree; and
 - charitable think tanks need policies and protocols directly comparable to the requirements for a charitable journalism organisation.
- f. Charitable status is, in principle, a separate issue from:
 - the basis of a journalism organisation's financing and funding, (though distinct financing and funding opportunities may be created and enhanced, through charitable status);
 - the regulation of journalism per se (though regulation of charitable status may overlap with and enhance sector regulation);

- the nature and state of the journalism industry and sector (though the public interest/benefit aspect of journalism may be highlighted and enhanced by the promotion and standards of charitable journalism organisations).

4.3 **Establishing the editorial policy of a charitable journalism organisation**

The aims of the organisation will need to include one or more of the following:

- public information – ensuring the public (especially excluded sections of the public) receives and contributes to high quality, factually accurate and well and fully explained, interpreted and contextualised news and information, including through investigative reporting. Note that in this context education need not meet the existing merit threshold used by the Charity Commission in establishing whether or not education is charitable, as discussed in paragraph [3.4] above;
- specialist public information – fulfilling a similar role in any specific public interest area, including public policies in all areas, art, culture, heritage, science, social and leisure activities etc;
- acting as an anchor, integrating and facilitating institution within local communities, or geographically diffuse common interest communities;
- distinguishing: truth from untruth; news from opinion; and what interests the public, from the public interest;
- holding public authorities, public service institutions, corporations and powerful individuals to account.

These and other public interest and public benefit principles and motivations may be consolidated into a constitutional charitable framework and entrenched charitable governance and operating policies and protocols.

The journalism industry has a centuries-old, clear, public interest element, based on the discipline of editorial policies and protocols and such policies and protocols may, in the charitable context, be produced and/or adapted with the defining essentials of charitable operation.

An outline example of such a charitable editorial policy and protocol is set out in Appendix 1 below (page 19).

4.4 **Implementing the editorial policy and protocol of a charitable journalism organisation**

The implementation of a charitable editorial policy will depend firstly on the seriousness, credibility and application of the founders and charity trustees in formulating and adopting such a policy.

Charitable status will then have an extremely important legal entrenching effect, as once an organisation is established as a charity, it becomes, irrevocably, a by-definition public benefit organisation and must, as a matter of law, continue to act exclusively to promote its charitable objects/purposes.

At the first level of accountability it is the fundamental duty of the charity trustees to ensure the proper operation of the charity – in a journalistic organisation this is principally through requiring the editor to adhere to the

charitable editorial policy and holding the editor to account for published content. At the second level of accountability there may be company members, people fulfilling constitutional functions equivalent to those of shareholders in a non-charitable company whose role is to hold the trustees to account.

At the third level of accountability, every member of the public has an interest in the proper operation of a charity, as do those which give funds privately to the charity in the form of grants or donations. At the fourth level of accountability the Commission may exercise interventionist authority to ensure the proper operation of a charity. Finally, the public would hold a charitable journalism organisation to account through an effective feedback and complaints mechanism (and engagement with a credible press regulator, as considered below).

To meet perceptions (founded, or unfounded) that there may be particular difficulties in an editorial policy and protocol being effective in ensuring charitable operation, various reinforcing constitutional, procedural and operational provisions and safeguards are possible, including:

- high-level operational imperatives relating to charitable editorial policy and protocol may be constitutionally entrenched under company law;
- charity trustees may be rigorously recruited and inducted, with a prime focus on charitable editorial policy and protocol;
- individuals employed, or engaged, by the charitable journalism organisation may be rigorously recruited, inducted and managed by reference to a prime focus on charitable editorial policy and protocol;
- company members may be recruited and inducted as second level mission custodians, with a prime focus on charitable editorial policy and protocol;
- advisory, consultative and scrutiny committees may be established with a prime focus on charitable editorial policy and protocol;
- an external independent review/scrutiny committee may be established;
- an effective means for members of the public to exercise a 'right of reply', provide feedback and, if necessary, complain about content, may be established, with submissions to be assessed independently and fairly and a requirement that acknowledgements and corrections are published in appropriate cases; and
- the charitable journalism organisation may subscribe to and/or be accredited by one or more self-regulatory schemes in relation to, or otherwise consistent with, public interest/public benefit journalism.

4.5 Verifying the application of the editorial policy of a charitable journalism organisation

It is possible to entrench in the governing document of the organisation, duties which apply to its board of trustees. This will consist of a primary, legal public benefit duty, with accountability, to verify application of the editorial policy and protocol. To do so the board may require reports from and scrutinize the performance of the editor and other senior members of the editorial team.

The board's verification function may itself be reviewed and scrutinized by an internal or external committee. A charitable journalism organisation will be

regulated by and accountable to the Commission, including through submission of an annual report which must detail the means by which its charitable objects have been promoted and this annual report may be specifically aligned with the editorial policy and protocol.

A charitable journalism organisation may be subject to sector self-regulatory, or sector regulatory verification provisions which may, in whole, or part, align with charity law requirements in relation to editorial policy and protocol.

5 CONCLUSION

There is no single 'silver bullet' which will solve journalism's current problems. The mission of quality journalism over the past two centuries – to acquire accurate information and deliver it to citizens – has not changed. But over those centuries journalistic organisations have had to adapt to many changes: legal, technological, social and economic. The journalists of today face colossal challenges which the current pandemic has made still worse.

Altering the application of charity law to journalism cannot solve all difficulties. But it would be a significant help. As the saying goes, every little bit helps.

Appendix 1

Sample outline editorial policy and protocol of a charitable journalism organisation

Constitutional Charitable Objects:

To advance public benefit journalism (provided this is recognised as a charitable purpose in its own right, as we have explained above, should be possible within existing charity law).

Or (if this is not recognised as a charitable purpose, some of or variations on the following):

To:

- i) advance public education and promote and advance public understanding and inform public debate;
- ii) advance citizenship, by promoting civic responsibility and engagement among members of the community;
- iii) to promote the moral and/or ethical good health of the community through supporting general public access to matters of public interest and/or concern; through high quality professional journalism, on an independent, objective, impartial, balanced, accountable and transparent basis, in the public interest, for the public benefit, as a public service.

Strategic mission of the organisation within its charitable objects:

The publication of high-quality public interest and public benefit journalism, as a public service

1 Public Benefit Purpose:

The publisher shall promote its Objects, by pursuing its Mission, for the Public Benefit, in accordance with this Editorial Policy.

2 Fundamental Principles:

All material published and all activities undertaken by, or on its behalf, shall comply with the following seven fundamental principles:

- a. Independence;
- b. Objectivity;
- c. Impartiality;
- d. Balance;
- e. Accountability and Transparency;
- f. Public Interest;
- g. High-Quality Professional Standards.

3 Regulatory Codes, Standards and Guidance:

- a. The publisher shall ensure the members of its Board of Trustees and its Senior Executive Team comply with the Nolan Principles of Public Life:
 - Selflessness;
 - Integrity;
 - Objectivity;

- Accountability;
 - Openness;
 - Honesty; and
 - Leadership
- b. The organisation shall ensure that the Board and Executive take due account of Guidance published by the Charity Commission of England and Wales relating to the charitable journalism organisations’s Mission, including such guidance on:
- the duties and responsibilities of charity trustees (CC3);
 - campaigning and political activity by charities (CC9);
 - reporting and accounting by charities (CC15);
 - risk management for charities (CC26);
 - conflict of interest management (CC29) and
 - complaints about charities (CC47).
- c. In applying the Fundamental Principles (to the extent consistent with the Objects and as far as applicable), the organisation shall comply with an appropriate regulatory code. Whilst a code may be specifically developed, currently the most suitable codes are:
- Impress:
<https://www.impress.press/downloads/file/code/the-impress-standards-code.pdf>
 - Ofcom code, part 5:
https://www.ofcom.org.uk/_data/assets/pdf_file/0014/132080/Broadcast-Code-Section-5.pdf
 - (guidance:
https://www.ofcom.org.uk/_data/assets/pdf_file/0033/99177/broadcast-code-guidance-section-5-march-2017.pdf)

4 Independence:

- a. The Board will be recruited, inducted and performance reviewed in accordance with charity law requirements and shall act exclusively by reference to the best public benefit interests of the charitable journalism organisation, with due conflict of interest management in accordance with organisation’s conflict of interest policy.
- b. The executives and staff will be recruited, inducted, performance managed and performance reviewed by reference to the best public benefit interests of the organisation and all employment/engagement contracts/agreements shall include due conflict of interest management provisions.
- c. The organisation will not accept financing, funding, third-party material, advertisements, or any contracts subject to any conditions which will, or may, compromise, or be seen to compromise, its independence.
- d. The organisation will be alert to and robustly resistant to the potential for Government, public authorities, institutions, corporations, or individuals, to attempt to, or otherwise have the effect of, unduly influencing the organisation, its editorial policy, or any aspect of its governance, or operations.

5 **Objectivity:**

- a. The charitable journalism organisation will have no predetermined editorial positions and will publish material on an objective basis, in accordance with the highest principles of professional journalism.
- b. The Executive and the Personnel will be recruited, inducted, performance managed and performance reviewed according to the Fundamental Principle of objectivity, as an element within the highest principles of professional journalism.
- c. All material submitted for publication will be editorially considered against the principle of objectivity and the need to consider and explain the reasonable and informed basis of any particular position that is, or may be seen to be, adopted by the writer of a published piece.
- d. Where published material is intended to present a particular position, for bona fide journalistic reasons, it shall be made clear, editorially, that this is distinct from the position of the charitable journalism organisation.
- e. Particular attention shall be applied to the public benefit and public interest need to investigate, correct and/or challenge: any unreliability of information, or data; misinformation; disinformation; propaganda; or untruth.
- f. The principle of objectivity does not preclude the organisation adopting particular reasoned and informed positions, or legitimate campaigning on such bases, as a reasonable means of promoting the Objects (as opposed to any non-charitable purpose).

6 **Impartiality, including in relation to political matters:**

- a. The organisation will not favour, or advocate, one side of any position over another, applying the Ofcom Code principle of 'due impartiality'.
- b. Executives and staff will be recruited, inducted, performance managed and performance reviewed according to the fundamental principle of impartiality, as an element within the highest principles of professional journalism.
- c. The organisation will adopt a specific editorial process for distinguishing between: i) a political purpose and/or politically partisan material, which a charitable journalism organisation must scrupulously avoid; and ii) political means, including campaigning, of pursuing a charitable purpose, which is legitimate. This is the fundamental distinction made in the Commission guidance on campaigning and political activity by charities, CC9. (The distinction is often not made precisely (including by the Commission), wrongly suggesting that charities cannot engage in the political domain).
- d. Where published material is judged legitimately to provide more attention, or prominence, to one position, for bona fide journalistic reasons, it shall be made clear, editorially, that this is not intended as an endorsement of, or support for, that position and is a matter of proper editorial judgment.
- e. The organisation shall not, editorially, express any particular view, or opinion, on any matter of an inherently political nature, or any matter of political debate, disputation, or controversy, relating to current public policy.

- f. The organisation shall not publish any material which is the expression of a particular view, or opinion, on any Political Issue, unless this accords with the scrupulous application of the fundamental principle of balance and/or the material includes detail on the reasonable and informed basis of the view, or opinion and reasonably acknowledges the existence of any significant opposing view, or opinion.
- g. The principle of objectivity does not preclude the organisation adopting particular reasoned and informed positions, or legitimate campaigning on such bases, as a reasonable means of promoting the Objects (as opposed to any non-charitable purpose).

7 Balance:

- a. The organisation will in relation to any issue, reasonably consider how far respectable different views, or perspectives of the issue do, or may, exist and use all reasonable endeavours, editorially, to include a reasonable reference to, or indication of, any such different views, or perspectives.
- b. Executives and staff will be recruited, inducted, performance managed and performance reviewed according to the fundamental principle of balance, as an element within the highest principles of professional journalism.
- c. Particular attention shall be applied to the consideration of possible relevant views, or perspectives, of interests, groups, or individuals which/who are, or may be, unrepresented, or under-represented in the reporting of any issue.
- d. The principle of balance does not preclude the organisation adopting particular reasoned and informed positions, or legitimate campaigning on such bases, as a reasonable means of promoting the Objects (as opposed to any non-charitable purpose).

8 Accountability and Transparency:

- a. The board is, as a matter of legal responsibility and duty, accountable to the public and is formally accountable to the Commission (in the name of the public) for the governance and (through delegation to the executives) the operation of the organisation.
- b. The board may appoint one, or more, internal and/or independent external committees with remits to focus, scrutinise and report on particular aspects of the governance and operation. Such committees may include:
 - a Scrutiny Committee, in relation to organisation's compliance with the fundamental principles;
 - an Investigations Committee, applying an Investigations Policy; and
 - a Complaints Committee, applying a Complaints Policy
- c. As an organisation with formal public benefit status and a public benefit mission directly to promote the best interests of the public, the organisation will operate on the basis of maximum transparency.
- d. The Executive will be recruited, inducted, performance managed and performance reviewed according to the Fundamental Principle of transparency, as an element within the highest principles of professional journalism.

- e. In particular, the organisation will ensure this Editorial Policy, its Complaints Policy and its Corrections Policy are easily available to the public.
- f. The organisation will adopt and make transparently available to the public a Feedback Policy to ensure interaction with the public and as a means, as far as possible, of ensuring the public interest, public benefit intentions of the organisation will be recognised and actually provide the intended benefits.

9 Public Interest:

- a. The organisation will publish material and undertake its activities exclusively for the public benefit and in the public interest, in fulfilment of the public service purpose, responsibilities and obligations of high quality, professional journalism. This means in accordance with its Objects, Mission and the fundamental principles and in contrast to commercialised journalism, where profit can dominate public service purpose and where 'what interests the public' tends to be a guiding principle, rather than what is in the public interest.
- b. The organisation will pursue its mission, particularly in recognition that in the early part of 21st century, high quality professional journalism is under existential threat.
- c. Among many elements making the Objects, the Mission and journalism of essential in the public interest and for the public benefit are:
 - the vital, public benefit need for a serious, reliable public education and public information resource dedicated to true, relevant and contextualised facts and honest and well-informed opinion, provided with depth, consistency and accumulating knowledge and understanding, across the full range of subjects important to civil society and;
 - the corresponding, vital public benefit need to provide alternative public information resources to those which are unserious and unreliable and which permit, facilitate and even promote: misinformation; disinformation; untruth; prejudice; propaganda; and manipulative opinion;
 - the vital, public benefit need for reliable media supporting and promoting community, civil society and international communication, engagement, participation, diversity, mutuality and resilience;
 - the vital public benefit need, as a bulwark of civil society, to represent the public in analysing, investigating, reporting on, holding to account and challenging: corporations; powerful and influential individuals; governmental and public authorities; and public institutions; .
- d. The organisation will adopt a specific editorial process for ensuring that all its activities, especially the public interest/public benefit elements in 9c above, are pursued in accordance with the fundamental distinction between: i) the illegitimacy of a political purpose and/or politically partisan material; and ii) the legitimacy of adopting political means, including campaigning, for pursuing a charitable purpose.

10 High-Quality Professional Standards

- a. The board will be composed of an appropriately expert and diverse group of individuals dedicated to the aims and mission described in this policy. Executives and staff will be recruited, inducted, performance managed and performance reviewed by reference to high quality professional standards in journalism.
- b. The professional codes, standards and guidance referenced in Paragraph 3c above, will be adopted, most especially to support and promote the governance and operation of the organisation in accordance with the highest standards.
- c. Among many elements comprising standards and codes of conduct, the following shall be of particular focus:
 - personal professional integrity and honesty;
 - legal and ethical conduct at all times, in all circumstances;
 - accuracy and relevance of fact and systemised fact verification;
 - reasonable and well-informed opinion;
 - fair, respectful and non-discriminatory treatment of all subjects and individuals, including through provision of a right to reply;
 - reliability, verification, and (subject to confidentiality and privacy imperatives) identification of sources and any personal interests of sources; and
 - in relation to the publication of material: the extent to which it is a matter of public interest, or concern; the potential value, or benefit of publication; the potential impacts of publication and its timing (positive and negative); the status of information, or data; importance; seriousness; urgency; priority; proportionality; context; tone; and balance.

Appendix 2

PBJRC - trustees and advisory committee

Professor Steven Barnett - Professor of Communications, Westminster University. Previously: specialist adviser to House of Lords Communications and Digital Committee. <https://www.westminster.ac.uk/about-us/our-people/directory/barnett-steven>

Kitty von Bertele – PBJRC trustee; Associate at Luminare, specialising in independent media, data and digital rights. Previously: Open Government Partnership, Cabinet Office and Department for International Development.

Julian Blake - Partner, Stone King, advising charities and social enterprise. <https://www.stoneking.co.uk/our-people/julian-blake>

George Brock - Chair, PBJRC Trust; Visiting Professor of Journalism at City, University of London; Trustee and director, Bureau of Investigative Journalism 2010-20. Previously: The Observer and The Times. <https://www.linkedin.com/in/geobrock/?originalSubdomain=uk>

Emma Meese – PBJRC trustee; Director of Community Journalism, School of Journalism, Media and Culture, Cardiff University. <https://www.linkedin.com/in/emmameese/?originalSubdomain=uk>

Dr Martin Moore – PBJRC trustee; Senior Lecturer in Political Communication Education & Director of the Centre for the Study of Media, Communication and Power. <https://www.kcl.ac.uk/people/martin-moore>

Tom Murdoch - Partner, Stone King, advising charities. Previously at publisher Reed Elsevier <https://www.stoneking.co.uk/our-people/tom-murdoch>

Rachel Oldroyd – PBJRC trustee; Managing Editor, Bureau of Investigative Journalism. Previously: editor of investigative section, Mail on Sunday. https://en.wikipedia.org/wiki/Rachel_Oldroyd

Sameer Padania - Consultant on innovation in journalism, human rights and philanthropy. Journalism Advisor to the Nesta Future News Pilot Fund; Consultant, Journalism Funders Forum. <https://www.linkedin.com/in/sameerpadania/>

Will Perrin - Founder of Talk About Local and campaigner for statutory duty of care for social media. Previously: Cabinet Office, DCMS. <https://indigotrust.org.uk/author/billper/>

Lawrie Simanowitz - Partner, Bates Wells & Braithwaite, advising charities and not-for-profits. Previously: documentary producer (BBC and C4), parliamentary researcher. <https://bateswells.co.uk/people/lawrence-simanowitz/>

Ben Stewart - Director, David and Elaine Potter Foundation. Previously: Wellcome Trust. <https://www.linkedin.com/in/ben-stewart-187b5858/?originalSubdomain=uk>

Dr Judith Townend - Senior Lecturer in Media and Information Law, University of Sussex. Previously: Institute for Advanced Legal Studies, University of London. <http://www.sussex.ac.uk/profiles/373643>

21 April 2020