CHARITY COMMISSION
DECISION OF THE CHARITY COMMISSIONERS
FOR ENGLAND AND WALES MADE ON 27 APRIL 2004

APPLICATION FOR REGISTRATION OF
THE MILLENNIUM COLLEGE UK LIMITED

1. The issue before the Commissioners

The Commissioners considered an application by a not-for-profit company limited by guarantee called "Millennium College UK Limited" (the "College") for registration as a charity. If the company was established as a charity it should be entered on the Central Register of Charities under section 3(2) of the Charities Act 1993.

The Commissioners have made this decision in a final review under the Commission's review procedures.

2. *Decision*

The Commissioners:

- having considered the case which has been put to them by the College, including submissions and full supporting evidence; and

- having considered and reviewed the relevant law and the proposed governing document and activities of the College

concluded that the College would be established for exclusively charitable purposes and may be registered as a charity with the following objects:-

"…to advance education for the benefit of the public by:
1 collating and publishing material on a wide range of educational subjects primarily by electronic means; and
2. providing and maintaining a multi-disciplinary interactive learning forum, primarily by electronic means, which will encourage learning by developing material, with a view to publication, through a process combining expert tuition and guidance and analytical reviews by the forum."

3. The Objects and Activities of the College

3.1. The College, registered on 28 July 2000 as a company limited by guarantee with Memorandum and Articles of Association, was established with the following object:

"……to advance education by using information technology to cultivate a multi-disciplinary approach to certain areas of study and include people hitherto excluded from formal education."

3.2. The College described its aim in the original application for registration as "cultivating a multi-disciplinary approach to learning". It would do so in two ways:-

3.2.1. It would engage through a forum (primarily by electronic means) with individuals and organisations of any educational level or experience in order to produce material of educational value that reflects a multi-disciplinary philosophy and generate materials and ideas that enhance the ability of teachers to teach (e.g. a concept of "open classrooms"); and

3.2.2. It would provide and publish (primarily by electronic means) the material of educational value that reflects this multi-disciplinary philosophy. The material was intended to function as a resource centre for schools and other educational establishments in general.

3.3. It described itself as being more akin to a research forum rather than a college in the conventional sense.

3.4. Membership of the forum would initially be by invitation but in due course, it would be widely advertised to anyone willing and able to make suitable contributions. The intention was to bring together people from different backgrounds, including both those who have been formally trained in academic disciplines and those with perhaps very little exposure to formal education.

3.5. The forum would examine subjects from a range of different angles. There would be no particular syllabus. It would have some face to face contact, although the principal interaction method would be by email. A number of examples of the email exchanges and articles on particular subjects were provided.

3.6. The educational material produced by the College would be published on a website, freely accessible to the public. It would be drawn largely from the contributions of the forum, edited and assembled by co-ordinators. It would include not only literary material, but also maps and illustrations. The aim was to create an extensive archive, which would also be linked to the National Grid for Learning.

4. ***The framework for the issues considered by the Commissioners***

4.1. The Commissioners noted that charities involved with education may carry out a wide range of activities[1]. They also noted that in modern day society, education may take a number of forms.

4.2. In considering whether the College's purpose was charitable, the Commissioners needed to look at whether the College's activities could be recognised as being educational for the benefit of the public within the existing charity law framework.

[1] It was noted that there were 68, 299 charities on the Register of Charities with objects which included reference to "education"

4.3. In order to do so, the Commissioners considered the legal framework for the advancement of education by a charity and what that extends to in modern society.

5. ***Consideration of the legal framework for the advancement of education by a charity and of what that extends to in modern society***

5.1. The Commissioners noted that the concept of education in charity law bears the same meaning as in present day, normal English speech, as confirmed by Lord Hailsham in **IRC v McMullen**[2].

5.2. The Commissioners noted that in the same case, Lord Hailsham stressed that the law is not static and, as the concept of charity, and the concept of education within it, must develop as ideas about social values change and evolve[3]. The Commissioners also noted, although of persuasive value only, the Supreme Court of Canada, in the Vancouver case[4], had recently echoed these sentiments, stating that in modern society education should not be understood restrictively.

5.3. In summary, the Commissioners considered that a number of key principles emerged when interpreting and applying the relevant legal authorities in a modern social context. First, the advancement of education covers both formal education[5], which may arise through schools, colleges, universities and other educational institutions, and less formal education, which may arise in the community. It covers training (including vocational training[6]) and research in specific areas of study and expertise[7]. It includes charities which promote the public's appreciation of the arts, by, for example, providing concerts, literary or theatrical performances which are of a sufficiently high standard to do so[8]. It also includes broader education in the development of individual capabilities, competencies, skills and understanding which may be undertaken in a less formal manner[9].

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[2] [1981] AC 1, at 15C

[3] Ibid., at 15E

[4] **Vancouver Society of Immigrant and Visible Minority Women v Minister of National Revenue** [1999] 169 DLR (4th) 34

[5] Places of education, such as schools, colleges and universities have long been recognised as charitable. Education is the second head of charity and can be traced back to **The 1601 Preamble to the Statute of Elizabeth** which referred to, *"the maintenance … of schools of learning, free schools and scholars in universities"*, and to *"the education and preferment of orphans.*

[6] Including providing apprenticeships, the advancement in life of young people and vocational training opportunities, such as NVQ programmes and providing training for unemployed people. See **Central Employment Bureau for Women and Student's Careers Association Inc** [1942] 1 All ER 232 at 233 and the **Vancouver Case** [1999] Ibid.

[7] This may include the production of information capable of educating the public in the topic area, the conduct of research or the provision and support of for example, museums and art galleries, zoos and public libraries. This element of education is often referred to in the case law as the improvement of a useful branch of knowledge or study and its dissemination to the public or a sufficient section of the public **Incorporated Council of Law Reporting for England and Wales v Attorney General** [1972] 1 Ch 73 at p102 per Buckley L.J..

[8] **Royal Choral Society v IRC** [1943] 2 All ER 101 and **Re Pinion** [1965] Ch 85

[9] **IRC v McMullen** Ibid. and the **Vancouver case** Ibid.. There are charities on the Register carrying out educational activities such as informal, interactive workshops and seminars, informal discussions which facilitate educational debate as well as those providing educative websites and electronic

The Scope of Charitable Education Outside of Formal Instruction

5.4. The Commissioners noted that education in the charitable sense does not go as far as the loose sense in which all experience may be said to be educative (**IRC v Baddeley**[10]) nor is it of indefinite expansion (per Lord Hailsham in **IRC v McMullen**[11]). However, the education provided need not be set in a formal context[12]. It may, for example, be developed in the community, provided the education advances the knowledge of the recipients or develops their individual capabilities, competencies, skills or capacity to understand in an educational way. This might include less traditional teaching methods, provided the methods and processes are satisfactory in terms of objectivity, quality and analysis and are capable of leading to learning.

5.5. The Commissioners noted the cases in which the court considered whether the mere provision of information could be educational or otherwise charitable. In **Re Shaw**[13] Harman J. said: *"If the object be the mere increase of knowledge it is not in itself a charitable object unless it is combined with teaching or education."* However, in the later case of **Re Hopkins Will Trusts**[14] Wilberforce J. indicated that these words were difficult to interpret other than in the context of that particular case. The Commissioners concluded that Harman J.'s limitation on education was not of general application. The Commissioners noted further that, in **D'Aguiar v Guyana IRC**[15] the court considered the charitablility of objects which included the provision of aid, advice and information. The court considered that those objects were not charitable. However, it did not appear to the Commissioners that this was conclusive of the extent to which it may be charitable to advance education (or any other recognised charitable purposes) by the provision of information.

5.6. The Commissioners considered that the definition of education proposed by Iacobucci J. in the **Vancouver case** was helpful as a modern definition of charitable education:-

"…so long as information or training is provided in a structured manner and for a genuinely educational purpose -- that is, to advance the knowledge or abilities of the recipients -- …… it may properly be viewed as falling within the advancement of education.[16]*"*

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materials and processes. See also **Re Koeppler's Will Trust** [1986] Ch 423, which although turned very much on its own facts, does illustrate that education in a charitable sense may be advanced in ways other than in a formal context.

[10] [1955] AC 572 per Lord Simonds at 585

[11] Ibid. at p17

[12] See footnote 9 above

[13] [1957] 1 WLR 729

[14] [1965] Ch 669, at 679-680

[15] [1970] TR 31

[16] Ibid. at p113

5.7. The Commissioners considered that "in a structured manner" meant that the material and/or processes used would need to be organised and/or presented in a way which meant they were capable of advancing the knowledge or abilities of the intended recipients. It would follow that how this was to be achieved in any particular case would depend upon the nature of the material and upon the knowledge, skills and capabilities of the people whom it was intended would be educated. The extent of the necessary structure of the material and/or processes would therefore depend upon the circumstances of each particular case. For, example, where the subject area and content of the material was complex and the intended recipients had no previous knowledge of the subject, it may be that the information imparted would need to be particularly structured and organised in a way which is accessible and educative. But where the content of the material imparted was extremely basic, the education of the intended recipients might be easily advanced without the need to structure the material or processes involved further. The important question was whether the material produced, in light of its own inherent (or lack of) structure, was for an educative purpose and advanced knowledge or abilities.

5.8. In this context, the Commissioners did not accept that Iacobucci J.'s statement in the Vancouver case set out below about the threshold of education was generally conclusive, particularly its second sentence:-

"…the threshold criterion for an educational activity must be some legitimate targeted attempt at educating others, whether through formal or informal instruction, training, plans of self study, or otherwise. Simply providing an opportunity for people to educate themselves, such as by making available materials with which this might be accomplished but need not be, is not enough"[17]

5.9. Furthermore, the Commissioners considered that although simply imparting information which was unstructured and of no or little educational value could not be charitable, there were cases where an individual's education could be advanced solely through the processes and methods used, where they were intended to and could be shown to develop an individual's capabilities, competencies, skills or understanding. For example, the intention may be to develop the individual's analytical skills, through the processes employed. The fact that the individual's factual knowledge may or may not be increased in the process is incidental. In these cases, the educative quality of the material imparted may be of less significance. The extent of the necessary educative nature of the material itself will therefore depend upon the circumstances of each particular case.

[17] Ibid., at p114

6. Consideration of whether the College's activities in the manner proposed by the College are capable of advancing education.

6.1. The Commissioners noted that the education provided by the College was not conducted in a traditional formal context. The first way in which the College claimed it developed learning was through the process in which students researched a topic area under expert tuition and guidance from tutors. The student's findings and material produced was then subject to reviews by fellow students and other members of the forum. The College argued that the nature of the process itself facilitated learning which was as important as the actual results which were engendered.

6.2. Applying the principles set out in paragraphs 5.4 – 5.9 above, this would be acceptable as the advancement of education, provided that the Commissioners were satisfied:

6.2.1. the work of the College was provided for a genuinely educational purpose, in that it sought to improve the minds of the immediate participants by adding to their factual knowledge or competencies, abilities, skills or understanding; and

6.2.2. the processes were such that the information and learning opportunities were provided in a sufficiently structured manner, appropriate in terms of quality, objectivity and directed to meeting the learning needs of the students.

6.3. The Commissioners noted that the topic areas were chosen either by students identifying subject areas they wished to research and investigate or by the College offering areas reflecting the expertise of the tutors who were already available. Once the topic area was selected, tutors would be identified by the College to provide directed learning and guidance. The work which was produced by the student would be circulated for fellow students and other members of the forum to review and provide critical analysis on. The feedback would be considered and tutors would provide guidance as to how to incorporate or respond to or analyse the feedback received into the student's material.

6.4. The Commissioners were satisfied that the work of the College was capable of developing learning both by adding to the student's and the forum members' factual knowledge and understanding of the subject area but also by improving the student's capabilities, developing their analytical and learning skills. They also considered that the quality of the process was sufficiently high, suitably structured and appropriate to the needs of the students.

6.5. The second way in which the College argued it would be advancing education was by publication of educational material, primarily on its website. The material would mainly consist of the students' research papers which had undergone the process described above. Appropriately qualified co-ordinators

would edit and assemble the material so that it is suitable for wider publication. The Commissioners noted the evidence submitted by two independent experts on the educative nature of the material presented.

6.6. The Commissioners were satisfied that the subject areas identified and material promulgated were capable of imparting knowledge and that the College was advancing education.

7. Consideration of whether the College's activities were provided for the public benefit

7.1. The Commissioners noted that the College intended to advertise widely for students to take part in the College's activities. The College confirmed that all students would have learning needs and was keen to emphasise that the means of electronic communication opened up contributions from people who may not otherwise make them, for example, because of difficulties they encountered with travelling to meetings, or simply because it provided an opportunity for the individual to respond in a way that he/she would not have the confidence to do in a meeting.

7.2. The College confirmed that all the tutors and co-ordinators were properly and appropriately qualified.

7.3. The Commissioners noted that the material distributed on the website would be freely available to the public.

7.4. The Commissioners noted their conclusions as regards the educational nature of the College's activities, as set out in paragraph 6 above. The Commissioners were satisfied that the processes were capable of producing a benefit to the public.

7.5. Furthermore, the Commissioners were satisfied that those benefits were available to a sufficient section of the public through participation as a student, membership of the forum and through wider distribution of the educational material. Accordingly, the Commissioners concluded that the College was established for the benefit of the public.

8. Conclusion

8.1. The Commissioners agreed, after careful consideration, that the College's purpose was to advance education and it did so for the benefit of the public, with the following objects:-

"…to advance education for the benefit of the public by:

1. collating and publishing material on a wide range of educational subjects primarily by electronic means; and

2. providing and maintaining a multi-disciplinary interactive learning forum, primarily by electronic means, which will encourage learning by developing material, with a view to publication, through a process

combining expert tuition and guidance and analytical reviews by the forum."

8.2. The Commissioners therefore concluded that, with these revised objects, it would be established for exclusively charitable purposes and should be registered as a charity pursuant to Section 3 of the Charities Act 1993.