

# Regulatory Case Report

## The Atlantic Bridge Education and Research Scheme

Registered Charity Number 1099513



## **This is a Regulatory Case Report of an investigation by the Charity Commission ('the Commission') concerning The Atlantic Bridge Education and Research Scheme ('the Charity'). The regulatory concerns relate to whether it is properly registered as a charity, and, if so, the extent to which it is carrying out charitable activities for the public benefit or is supporting a political party.**

**The Investigation focused on whether the Charity has a political purpose, has carried out charitable educational activities or has supported a political party by promoting or aligning itself with a particular strand of party political policy - which are improper under charity law. These concerns have the potential to impact not only on the work and reputation of the Charity, but also on public trust and confidence in charities generally.**

**Having regard to the principles of best regulatory practice, the Commission has decided to publish this Regulatory Case Report on its investigation.**

**This report also identified relevant issues for the wider sector.**

**The date of the publication of this report is 26 July 2010.**

### **The Charity**

1. The Atlantic Bridge Education and Research Scheme is governed by a trust deed dated 3 February 2003 and was entered onto the Commission's Register of Charities on 18 September 2003.

2. The Charity's objects are:

*'Such objects in any part of the world are exclusively charitable in accordance with the laws of England and Wales.*

*The furtherance of public education on both sides of the Atlantic, in areas of common interest, focusing particularly but not exclusively on free trade, economics, health and science.*

*Research into relations between Europe and North America and their implications for the international community with the aim to raise cultural awareness and improve links'.*

3. The Charity's website states that its aim continues to be 'to provide a transatlantic forum for generating debate and ideas on effective ways to strengthen the Special Relationship<sup>1</sup> through the promotion of close and strong relations between the United Kingdom and the United States of America<sup>2</sup>.

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1 The term the 'Special Relationship' was first used in 1946 by Sir Winston Churchill in Missouri, USA to describe what he considered to be close relations between the United Kingdom and the United States of America particularly in relation to common security and defence. Since Sir Winston Churchill's use of the term, it has developed over time and is viewed by some to extend beyond defence and security matters to include, amongst others: world trade, the environment and international aid. The term has subsequently been used by leaders from various political parties in both the United States and the United Kingdom.

2 <http://www.theatlanticbridge.com/aim.html>

4. The Trustees' Report and Financial Statements from 2007-2009 show that the trustees have chosen to focus the Charity's activities on public education and conducting research.
5. From information publicly available about the Charity, which include its website and Trustees' Reports and Financial Statements, the Charity has undertaken activities which include:
  - (i) hosting conferences and seminars relating to transatlantic aviation, global energy markets, biotech pharmaceuticals and life science;
  - (ii) a 'Young Leaders Programme' to provide an international forum for the exchange of views and to generate ideas on how to effectively promote and strengthen the Special Relationship between the United Kingdom and United States of America;
  - (iii) the creation of a 'Margaret Thatcher Lecture and Medal of Freedom' lecture series – which has included speeches by prominent political figures<sup>3</sup> on various issues including security threats to the United Kingdom and United States of America; and
  - (iv) a number of receptions/lectures by historians and political figures on various issues including security threats to the United Kingdom and United States of America and historical Anglo-American relations.
6. The Charity works closely with an organisation established and operating in the United States of America, called 'Atlantic Bridge Inc'. Atlantic Bridge Inc is registered as a 501(c)(3) non-profit organisation with the Internal Revenue Service ('IRS') of the United States Department of the Treasury<sup>4</sup>. The Charity and Atlantic Bridge Inc have similar but separate websites – these are [www.theatlanticbridge.com](http://www.theatlanticbridge.com) and [www.theatlanticbridgeusa.com](http://www.theatlanticbridgeusa.com).
7. In the Trustees' Report and Financial Statements for the year ended February 2009, the Charity's income was £66,153 and its expenditure was £85,325.

## Source of concern

8. In August 2009 the Commission received a complaint from a member of the public that the Charity appeared to be a party political organisation and that consequently its objects are not charitable as defined by law. The complaint made reference to information contained on the Charity's website regarding its activities and the composition of the trustee body. The complaint queried the fact that the majority of the trustees are members of, or have an affiliation with, the Conservative Party<sup>5</sup> and that the activities of the Charity support the Conservative Party, its members and followers. The complainant questioned whether the Charity could demonstrate that it is operating for the public benefit.
9. This complaint raised concerns for the Commission that the Charity may have a political purpose, support a political party and be acting in such a way as to call into question the Charity's independence from political parties.

3 More information relating to guest speakers at the Charity's events can be found on the Charity's website <http://www.theatlanticbridge.com> and in the Trustees' Reports and Financial Statements which can be viewed here <http://www.charitycommission.gov.uk/SHOWCHARITY/RegisterOfCharities/CharityWithoutPartB.aspx?RegisteredCharityNumber=1099513&SubsidiaryNumber=0>

4 More information on 501(c)(3) organisations can be found here <http://www.irs.gov/charities/charitable/article/0,,id=96099,00.html>

5 A full list of the current trustees can be found by viewing the Charity's entry on the Commission's Register of Charities which is accessible here <http://www.charitycommission.gov.uk/ShowCharity/RegisterOfCharities/ContactAndTrustees.aspx?RegisteredCharityNumber=1099513&SubsidiaryNumber=0> and here <http://www.theatlanticbridge.com/experience.html>

10. Following a review of information available about the Charity and its activities, including information published on its website the Commission identified additional causes for concern. These were, whether:
  - (i) the activities of the Charity were capable of advancing education under charity law; and
  - (ii) the trustees were able to demonstrate that the Charity operates for the public benefit.

## Issues examined

11. The Commission opened a regulatory compliance case on 21 August 2009. The Commission's substantive investigations were concluded on 5 July 2010.
12. The purpose of the Commission's case was to determine whether:
  - (i) the Atlantic Bridge Education and Research Scheme is established as a charity capable of operating for the public benefit;
  - (ii) the activities of the Charity are furthering its charitable purposes for the public benefit; and
  - (iii) the Charity had engaged in inappropriate political activities.The Commission also looked at the governance of the Charity.
13. During the course of its investigation, the Commission made a number of enquiries to resolve the issues outlined above. This work included corresponding and meeting with the trustees to discuss the Commission's regulatory concerns and obtain further information. The Commission also reviewed publicly available information in relation to the Charity and its activities.
14. This was the Commission's first engagement with the Charity regarding concerns of this nature. The trustees have co-operated with the Commission's investigation and accepted the regulatory advice and guidance provided.

## Findings

15. As a result of its investigation and information supplied by the trustees, the Commission's findings are as follows:
  - (i) Whether the Atlantic Bridge Education and Research Scheme is established as a charity capable of operating for the public benefit**
16. The Charity's website states that its purpose is to provide a transatlantic forum for generating debate and ideas on effective ways to strengthen the Special Relationship through the promotion of close and strong relations between the United Kingdom and the United States of America. In itself, this suggests the promotion of a particular point of view which would not be charitable.

17. However, the Charity's actual principal object as set out in its trust deed is *"The furtherance of public education on both sides of the Atlantic, in areas of common interest, focusing particularly but not exclusively on free trade, economics, health and science."*
18. Such subjects of study or education, whether defined as in the trust deed or by reference to the Special Relationship, are legitimate areas of study having educational value and accordingly such objects fall within the descriptions of purposes set out in Section 2 (2)(b) of the Charities Act 2006 being for the advancement of education. Further, these objects are capable of being carried out for the public benefit if carried out in a balanced and neutral way which is accessible to the public.
19. The Investigation found that, notwithstanding the Charity's own description of its purpose, the Atlantic Bridge Education and Research Scheme is established in law as a charity with exclusively charitable objects being capable of operating for the public benefit. Consequently, it is properly registered with the Commission as a charity.

**(ii) Whether the activities of the Charity are furthering its charitable purposes for the public benefit**

**Context**

20. In considering whether the activities of the Charity are capable of advancing education for the public benefit the Investigation assessed whether the work is:
  - a. in furtherance of the Charity's purposes as outlined in paragraph 2 above;
  - b. of educational value or merit;
  - c. balanced and not seeking to promote a particular point of view; and
  - d. made sufficiently available to the public.

If any one or more of these criteria were not to be satisfied it would impact on whether the Charity is advancing education for the public benefit in accordance with charity law.

21. Education in a charity law context does not have to be value free and completely impartial. Education can be based on broad values that are uncontroversial which would be generally supported by objective and informed people. However, the advancement of education cannot be used to promote a political or pre-determined point of view. It remains the case that the promotion of an opinion on its own which is not shown to have educational value (say a particular position on a matter of public controversy) will not be charitable, or to put it another way, the attempt to introduce a particular point of view not exhibiting a general educational tendency will not be charitable. See *Southwood v AG* 1998 WL and 2000 WL (CA (CivDiv)) *'The Court is in no position to determine that promotion of the one view rather than the other is for the public benefit'*.

## The promotion of the Special Relationship

22. The Charity has previously placed considerable emphasis on the Special Relationship as exemplified by the Thatcher-Reagan dynamic during their time in office<sup>6</sup>. Based on the framework outlined in paragraph 20 above, the Investigation considered that promoting the approach or viewpoints of these leaders in relation to the Special Relationship during their time in office would not generally be accepted by members of the public as being uncontroversial. Consequently, this approach could not be accepted as advancing education under charity law<sup>7</sup>.
23. The Charity informed the Investigation that the example of the Thatcher-Reagan partnership has been used because it illustrates a particularly close and strong example of cooperation. The Charity has confirmed that other dynamics have been explored and that the Special Relationship does not depend on the personal chemistry between any two leaders or the relationship between political parties. The Charity has not demonstrated that these events have offered a broad cross-section of views on the topics discussed.
24. While the advancement of education in the Special Relationship can be an accepted subject of education, study and research, the Investigation found that the events and activities that the Charity considered to have advanced education could not have done so because they promoted a pre-determined point of view<sup>8</sup>. The trustees adopted the starting point that the Special Relationship between the United Kingdom and the United States of America should be promoted and strengthened. As such, these are not educational activities as understood in charity law.

## Dissemination to the public

25. The Investigation went on to consider whether information and material from the various events and lectures held were made sufficiently available to the public. This is a key criterion for charities which engage in educational and research work and a way to demonstrate that a charity operates for the public benefit.
26. Having reviewed information publicly available and supplied by the Charity, the Investigation found that it was not evident that this had advanced education.
27. The Investigation found that the results and findings of the Charity's research, lectures and events had not been sufficiently disseminated to the public – little material had been published on the Charity's website or elsewhere. The Charity has confirmed that it intends in the future to place more information on its website relating to its events to ensure that this is made available to the public.
28. The Investigation has however made it clear that, if the material produced by the Charity is not educational (for example, by virtue of it promoting a particular point of view), making this publicly available will not satisfy the requirements for advancing education under charity law.

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6 The Charity's website previously stated that "The Atlantic Bridge was founded...with the simple aim of 'Strengthening the Special Relationship' exemplified by the Reagan-Thatcher partnership of the 1980's". The aim of the Charity can be found on its website here <http://www.theatlanticbridge.com/aim.html>

7 In the case of *Southwood v Attorney General [2000] All ER(D) 886* – it was accepted by the Court that the promotion of peace was not a controversial point of view, as most people would accept that peace is preferable to a state of war. However the Court considered the ways in which a charity may seek to achieve peace, in this case through proposing unilateral disarmament, was viewed as controversial and inevitably involves making political judgements which would usurp the role of government. It was therefore deemed not to be advancing education.

Charities with education and research objects can advance these objects from a pre-determined point of view only if this is from an uncontroversial base point.

8 The Commission has previously considered whether an organisation, known as the Margaret Thatcher Foundation, would be eligible for registration as a charity. The Commission examined the objects of the organisation and its proposed activities. The Commission advised that the activities, as outlined, were not educational under charity law as they were concerned with arguing and advancing a particular political viewpoint. This decision was reported in the Commission's Annual Report 1991.

### **(iii) Whether the Charity engaged in inappropriate political activities**

29. The Investigation noted that despite the breadth of the objects of the Charity which referred to relations between Europe and North America, the Charity had confined its works to the United Kingdom and the United States of America. It further noted that the Charity, through its website and activities, had focused on Margaret Thatcher's interpretation and promotion of the Special Relationship to demonstrate the benefits of the relationship, which the trustees have said illustrated the strength of the relationship at that time. This can be seen as an aspect of the Conservative Party's political thinking, although it is accepted that the Special Relationship is a term used by leaders from various political parties in both the US and UK. Against that background, the Charity's activities such as the Young Leaders Programme and various lectures/seminars held, have significantly focused on the promotion of the Special Relationship in a similar manner. The trustees informed the Investigation that they created a 'Margaret Thatcher Lecture and Medal of Freedom' in honour of the Charity's patron, Lady Thatcher and that this served as both a fundraising activity for the Charity and an activity which they considered furthered its charitable purposes<sup>9</sup>.
30. The Investigation considered that, whilst it is acceptable for a charity to have patrons and trustees who are politicians or political figures, the trustees should give sufficient consideration to any risks that may arise from this and manage these appropriately. From a review of the speeches given at the Margaret Thatcher lecture by the recipients of the Margaret Thatcher Medal of Freedom, it is apparent that their contents have focused on her personal contribution during her time as Prime Minister and the point of view that the Special Relationship should be strengthened and promoted. This suggests that the activities of the Charity are promoting a political policy which is closely associated with the Conservative Party.
31. From the information available to the Investigation, it is not evident that, when politicians and political figures have spoken or participated at the Charity's events, the trustees can demonstrate that they have done so in a neutral and balanced manner and included a sufficient cross-section of views to enable those attending to make up their own minds on the issues being discussed. Equally, it is not apparent that the trustees have ensured that these events were educational and not promoting a particular point of view, namely the enhancement of the Special Relationship.
32. During the Investigation, the complainant contacted the Commission again regarding the content of an article written by the Chief Executive of Atlantic Bridge Inc<sup>10</sup> entitled 'What Britain's Changing of the Guard will mean for the US'. The article is political in nature and commented on the implications for the United States of America of a Conservative Government following the May 6 UK General Election. The author concluded that "*Americans should look forward to May 6, after which Cameron and his government will likely assume power. He (David Cameron) will be good for America and better for the Special Relationship*". This article was published on 7 April 2010<sup>11</sup>.
33. The article did not distinguish between the UK and US based organisations simply referring to the Atlantic Bridge as 'a non-profit foundation with offices in both countries that seeks to promote the special security relationship between America and Britain'. The Charity, despite having a working relationship with Atlantic Bridge Inc, should maintain a clear separation between it and the American-based organisation. Failure to do so is likely to damage the reputation and call into question the independence of the Charity, as was evident on this occasion.

<sup>9</sup> Further information relating to these events can be found on the Charity's website <http://www.theatlanticbridge.com/events.html>

<sup>10</sup> Atlantic Bridge Inc is a 501(c)(3) organisation registered with the IRS in the United States, therefore its activities do not fall within the jurisdiction of the Commission.

<sup>11</sup> <http://www.washingtonexaminer.com/opinion/columns/OpEd-Contributor/Amanda-Bowman-What-Britains-changing-of-the-guard-will-mean-for-the-US-90129927.html>

34. In reviewing the activities of the Charity, the Investigation found that some of these could call into question the Charity's independence from party politics. Furthermore, the Investigation found that some of these activities could lead members of the public to associate the Charity and its work with the Conservative Party and question whether it is promoting a political point of view or has a political purpose.

## Conclusions

35. The Commission concluded that the Atlantic Bridge Education and Research Scheme is established as a charity with exclusively charitable purposes and is capable of operating for the public benefit.
36. The educational objects of the Charity have not been advanced by its activities because these activities promote a particular point of view which is not uncontroversial, and are consequently not educational. In addition the results and findings of the work of the Charity have not been sufficiently disseminated to the public. The activities of the Charity have not furthered any of its other charitable purposes in any way.
37. The Commission also concluded that the activities of the Charity may lead members of the public to call into question its independence from party politics. The promotion of the Special Relationship is not the purpose of this Charity, nor can it be. The Commission has made clear to the trustees their legal and regulatory responsibilities and that the Charity's current activities must cease immediately.
38. To ensure that the Charity operates in compliance with charity law, the Commission has requested that the Charity undertake to carry out certain steps in the next twelve months as detailed below.

## Outcomes

39. The Commission provided the trustees with regulatory advice and guidance regarding the legal and regulatory requirements with which it must comply. The Commission also provided the trustees with specific regulatory advice and guidance regarding the advancement of education under charity law and operating in the political environment.
40. As a result of the Commission's intervention the Charity has committed to undertake a review over the next twelve months to include:
  - (i) the activities of the Charity to ensure that they are compatible with and capable of furthering its charitable objects – as written in its governing document – for the public benefit;
  - (ii) ensuring that decisions to undertake activities are made from the starting point of considering how best to further one or more of the Charity's objects for the public benefit as set out in its trust deed;



- (iii) the content of the Charity's website – in particular how the Charity explains its aims and purpose, whether its content is politically neutral and giving greater clarity between the Charity's website and that of Atlantic Bridge Inc;
  - (iv) the maintenance of proper records regarding trustee decision-making; and
  - (v) regular risk assessments in relation to the Charity's activities and records steps taken to mitigate these.
41. The Commission has requested that the trustees report on the outcome of the review within two months of its completion.
  42. Failure by the trustees to address the issues raised with them would be of serious concern. If the trustees fail to ensure that the Charity operates within the legal and regulatory requirements this may result in future regulatory action by the Commission.

## Issues for the wider sector

43. One of the key features of advancing education or promoting research for the public benefit in charity law is that the education or research must not promote a position on a contested issue or area, unless that view is uncontroversial. To advance education under charity law, information must be presented in such a way as to allow those being educated to make up their own minds on the issues and form conclusions that are based on an objective analysis of the evidence. Equally, this principle applies to promoting a particular political stance or policy, which cannot be charitable. Trustees can only educate the public about a political policy in general terms, for example debates on the nature and content of those policies, rather than educating from the point of view that a certain political policy is good or better than another.
44. It is a fundamental principle that charities must remain independent from party politics and cannot give support to a political party, politician or political candidate. This applies to both purpose and activity. Support for a political party cannot be for the public benefit as it is not possible for the courts to judge the public benefit of one policy over another.
45. The trustees of charities engaging in the political arena must also take care to protect the charity's independence and perceptions of its independence. Charity trustees have a legal duty to act in the charity's best interests, and so should not take decisions that cause harm to the charity by leading to adverse publicity, or seriously compromising a charity's independence, or perceptions of this.

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