

PE1531/L

Written Evidence – Public Petitions Committee: [PE1531](#) Charitable status of independent schools

1. Introduction

The Scottish Charity Regulator (OSCR) is established under the Charities and Trustee Investment (Scotland) Act 2005 ('the 2005 Act') as a Non-Ministerial Department forming part of the Scottish Administration. OSCR is the registrar and regulator of charities in Scotland. There are currently over 23,500 charities registered in Scotland.

OSCR gave evidence to the Scottish Parliament Public Petitions Committee on 13 January 2015 on the Petition PE1531, and we provided written evidence to the Committee prior to that.

At its hearing on 17 March, the Committee agreed to write to OSCR to ask that it undertakes work to describe the social good derived from the functions of independent schools.

We are of course happy to further assist the Committee, and we trust that the information provided in this response is helpful. We should make clear to the Committee at the outset however that it is not part of OSCR's functions to assess the social good provided by the charities it regulates, and we are not equipped to do so. Our role is narrower than this. As part of our function of determining whether organisations are charities, we must decide whether or not on an individual basis they provide public benefit. Public benefit is a narrower term than 'social good' and has a particular meaning in charity law. We have set out our interpretation of the public benefit requirements in our statutory guidance, and discussed our position on this as it applies to our decision making on independent schools in our previous evidence to the Committee.

In particular, we take into account only the benefit provided by a charity in the exercise of its functions – that is, in line with its charitable purposes. We do not assess or take into account other aspects of activity which might fall under the broader heading of 'social good'. For instance, we do not take into account and have no information on jobs supported or created through people directly or indirectly employed by a charity, the effect on the economy of expenditure by the charity on goods and services or the

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extent to which a charity's activities relieve the public sector of expenditure. The Committee may be aware that some of these issues were covered in a report commissioned last year by the Scottish Council of Independent Schools to assess the economic contribution that its members make to the Scottish economy (see <http://tinyurl.com/nvsnx2b>), but we are not in a position to make any comment on that analysis.

This paper therefore sets out in general terms and through illustrative examples the public benefit provided by the independent schools that we regulate. The basis for this is the information collected and published during the reviews of charitable status of independent schools that we have carried out in the period since 2007 (see <http://tinyurl.com/mhg6xqn> for our report, 'Fee-charging schools, public benefit and charitable status').

Overall benefit of independent schools charities

OSCR regulates 73 schools charities. Of these 51 are 'mainstream' schools, with the remaining 22 being special needs schools of various kinds. A number of these charities operate more than one school, and others operate a school as part of a wider range of charitable activity.

The table below sets out some headline information about the 'mainstream' schools we regulate:

Type of educational provision	Number of schools charities with this provision	Number of pupils
Nursery	32	1,470
Primary and/or secondary	50	28,805
Day	50	25,749
Boarding	19	3,056

Schools reviewed

The charitable purposes of the 52 schools we reviewed fall for the most part under the general heading of the advancement of education, and the main benefit the schools provide is very simply described: it is the provision of education to nearly 30,000 pupils that attend these schools.

For the most part the schools we reviewed were 'mainstream' fee-charging schools, since these were of most interest in terms of the charity test. Even within that group the nature of the curriculum provided varied widely, and that is one of the characteristics and perhaps one of the benefits provided by the sector. Among the schools we reviewed were:

- 1 specialist music school

- 4 Steiner schools
- 1 international school
- 9 religious schools
- 1 school catering for deaf and hearing impaired children

While the majority, particularly of the day 'mainstream' schools, follow the Curriculum for Excellence and the Scottish exam system, while others follow the England and Wales curriculum or teach the International Baccalaureat. Of the schools we reviewed, 38 provided 'all-through' education including both secondary and primary and 32 also provided nursery education. The quality of education provided by schools registered by the Registrar of Independent Schools is monitored by Education Scotland and the most recent reports on the schools are available on the Education Scotland website.

A majority of the schools reviewed provided a range of educational benefit for members of the public beyond the pupils on their roll, and this was something which we looked at particularly closely when assessing the public benefit provided by fee-charging schools, in deciding whether access to the benefit they provided was unduly restricted by the fees charged. We gave particular weight where these activities were regular, frequent and timetabled. Examples of these were:

- Provision of facilities, such as classrooms, sports facilities, halls and theatres, to a number of external users on a regular and scheduled basis. Users include state schools, sports clubs and community groups
- The provision of secondary education to state school pupils where the subject was not offered by their own school
- Lectures, seminars and other events open to pupils from other schools

The kind of wider benefit provided varied widely between schools, and was dependent on a number of factors:

- The size, location and capacity of the school – in general practical considerations make it harder for small rural schools to provide wider benefit
- The nature of the school's facilities – it is easier to get take up of provision for the wider public where schools have specialised facilities (eg for sports, music or drama) or teaching (eg minority languages or subjects)
- The school's context – the take-up, particularly of provision of benefit to pupils from state schools, was often dependent on demand and on whether there were gaps in local provision which the fee-charging school could fill.

In some cases schools have additional purposes such as advancing community development and provision of recreational facilities or activities, and they will provide benefit such as use of halls or sports facilities by community bodies or local sports clubs.

Due to this variation, we have found it difficult to quantify this kind of benefit in any consistent way. However, the case studies in the attached appendices are intended to

give some idea of what kind of activity can be involved.

Assistance for pupils who cannot pay fees

All but one of the schools we reviewed charged some level of fee or parental contribution. These ranged from:

- £1,500 per year for junior day education to £11,237 per year for senior day education
- £15,450 per year for junior boarding education to £25,860 per year for senior education

Where the schools we reviewed charged fees, we paid particular attention to the assistance (such as bursaries or discounts) provided by the schools or from other sources for pupils or prospective pupils who could not afford to pay the fees charged from their own resources. We set out the principles on which we looked at this in our previous written evidence to the Committee. Lack of such assistance or inadequate levels of assistance were a factor in most of the cases where we found a school failed the charity test.

The kind of assistance to which we gave the most weight was assistance that was means-tested so that it was targeted at those in most need:

- The value of bursaries offered within individual schools ranged from 10% to 105% of the fee with some schools also covering additional costs like uniforms or transport
- Individual schools spent varying proportions of their available gross income on means tested bursaries, ranging from 4.6% to 42.1%. The median proportion was 6.1%, and the highest percentages were in small specialist schools
- The proportion of pupils in receipt of means-tested assistance at individual schools ranged from 5.8% to 57.9%. The median proportion was 10.2%.
- Sources of bursary funding varied – some schools paid for assistance from fee income, while others were able to draw on endowments set up for the purpose, and in one case there was statutory provision for assistance with fees.
- The total expenditure on means tested assistance in all the schools we reviewed was £20.9 million, and these awards benefitted 3,152 pupils.

The case studies in the attached appendices give some examples of how arrangements for assistance worked in practice, and how this interacted with the other aspects of the schools' activities.

Many of the schools also offered scholarships or other awards involving payment of fees or fee reductions to pupils, usually awarded on the basis of academic, sporting or other merit. The majority of schools also offered a discount for siblings attending the school and a number offered fee reductions for the children of staff members. Where these were not primarily predicated on the needs of those unable to pay fees we gave

these less weight in our decision-making. The total expenditure on this type of award in the schools we reviewed was £13.7 million, and these awards benefitted 4,931 pupils.

During the period of our reviews, a number of the schools reduced their emphasis on this type of award, switching expenditure to means-tested assistance, and making scholarships more in the nature of an honorary award.

Special needs

Members of the Committee expressed a particular interest in the special needs schools which we regulate, and which differ in a number of ways from the schools described above. There are 22 of these (one is in the process of closing). In 2007 we reviewed the charitable status of one of them, Donaldson's, which serves deaf or hearing impaired children, and found that it passed the charity test. Along with 6 other charities on our register (including the Royal Blind School, Capability Scotland's schools and the Scottish Centre for Children with Motor Impairments) Donaldson's is a Grant Aided Special School. When we reviewed Donaldson's it was funded by Scottish Government with the balance of costs being met by local authorities who take up places on behalf of students. Charges levied to local authorities were approved on an annual basis by Ministers. Access to the benefits these charities provide is generally on the basis of a referral for prospective students from a local authority, NHS or other agencies. The remaining 14 charities falling into this category are extremely varied and usually specialised in the nature of the benefit they provide or the type of students they cater for, and it is difficult to give any generalized description of the benefit they provide.

Specialisms include:

- Provision for Additional Support Needs (ASN)
- Provision for children and young people on the autistic spectrum
- Provision for children and young people with behavioural or offending issues
- Provision for children who have suffered trauma

Facilities tend to deal with a small, sometimes very small number of students at any one time, with a very high ratio of staff to students. Besides providing school-type facilities on a residential or day basis, a number of the charities also provide benefits such as respite care, secure accommodation, training and employability services, and support in a community setting.

Access to the benefit these charities provide is usually dependent on a referral from a local authority, NHS or the Children's Hearing system as appropriate. Fees (which can be very substantial, given the high cost of provision) are generally met by the referring authority.

Given that this group of charities present a lower risk of failing the charity test than the 'mainstream' independent schools, we have not individually reviewed them, and we have less information available about them in terms of student numbers and income.

8. Conclusion

OSCR welcomes the opportunity to give further assistance, and hopes the Committee finds this submission useful.

OSCR
20 April 2015

Appendix A: Schools reviewed as part of individual charity review programme

Charity name and number	Date review started	Outcome
1. Corporation of The High School of Dundee (SC011522)	2006	Met charity test
2. George Heriot's Trust (SC011463)	2007	Met charity test
3. Glasgow Steiner School (SC005339)	2007	Met charity test
4. Gordounstoun Schools Limited (SC037867)	2007	Met charity test
5. Governors of Donaldson Trust (SC017417)	2007	Met charity test
6. Regius School (SC022723)	2007	Met charity test
7. St Mary's Music School Trust Ltd (SC014611)	2007	Met charity test
8. Hutchesons Educational Trust (SC002922)	2007	Failed charity test on initial review – direction issued Subsequently complied with direction and met test
9. Lomond School Limited (SC007957)	2007	Failed charity test on initial review – direction issued Subsequently complied with direction and met test
10. Merchiston Castle School (SC016580)	2007	Failed charity test on initial review – direction issued Subsequently complied with direction and met test
11. St Leonards School (SC010904)	2007	Failed charity test on initial review – direction issued Subsequently complied with direction and met test
12. Jordanhill School (SC004463)	2007	Failed charity test on initial review – direction issued Subsequently complied with direction and met test
13. Cargilfield School (SC005759)	2010	Met charity test
14. Aberdeen Waldorf School (SC012895)	2012	Met charity test
15. Ardvreck School Ltd (SC009886)	2012	Met charity test
16. Albyn School Limited (SC008392)	2012	Met charity test
17. Beaconhurst Grange Ltd (SC005753)	2012	Met charity test

18. Belhaven Hill School Trust (SC007118)	2012	Met charity test
19. Belmont House Ltd (SC016822)	2012	Met charity test
20. Christian Schools (Scotland) Ltd (SC006206) (Hamilton College)	2012	Met charity test
21. Clifton Hall School Ltd (SC009293)	2012	Met charity test
22. Compass School (SC020370)	2012	Met charity test
23. Craigclowan School Ltd (SC010817)	2012	Met charity test
24. Craigholme School (SC014860)	2012	Met charity test
25. Edinburgh Merchant Company Education Board (SC009747) (George Watson's School and Erskine's and Stuart Melville Schools)	2012	Met charity test
26. Edinburgh Steiner School Trust Limited (SC002109)	2012	Met charity test
27. Glenalmond College (SC006123)	2012	Met charity test
28. Governors of Dollar Academy Trust (SC009888)	2012	Met charity test
29. Kelvinside Academy War Memorial Trust (SC003962)	2012	Met charity test
30. Kilgraston School Trust (SC029664)	2012	Met charity test
31. Lathallan Schools Limited (SC018423)	2012	Met charity test
32. Lewis Independent Christian School, Stornoway (SC028950)	2012	Met charity test
33. Mannafields Christian School, Edinburgh (SC006202)	2012	Met charity test
34. Moray Steiner School Ltd (SC007157)	2012	Met charity test
35. Robert Gordon's College (SC000123)	2012	Met charity test
36. Morrison's Academy Trust Scheme (SC000458)	2012	Met charity test
37. Oakwood Education Trust	2012	Met charity test

(SC024571)		
38. St Margaret's School for Girls (SC016265)	2012	Met charity test
39. St Mary's School, Melrose (SCSC009352)	2012	Met charity test
40. Springvale Education Trust (SC033774)	2012	Met charity test
41. Strathallan School (SC008903)	2012	Met charity test
42. The Glasgow Academicals War Memorial Trust (SC015638) (Glasgow Academy)	2012	Met charity test
43. The International School of Aberdeen (SC007756)	2012	Met charity test
44. The High School of Glasgow (SC014768)	2012	Met charity test
45. The Proprietors of the Edinburgh Academy (SC016999)	2012	Met charity test
46. The Governors of the Fettes Trust (SC017489) (Fettes College)	2012	Failed charity test on initial review – direction issued Subsequently complied with direction and met test
47. St Columba's School Ltd (SC012598)	2012	Failed charity test on initial review – direction issued Subsequently complied with direction and met test
48. St George's School for Girls (SC012632)	2012	Failed charity test on initial review – direction issued Subsequently complied with direction and met test
49. Wellington School Ayr Ltd (SC005052)	2012	Failed charity test on initial review – direction issued Subsequently complied with direction and met test
50. Loretto School Ltd (SC013978)	2012	Failed charity test on initial review – direction issued Subsequently complied with direction and met test
51. Fernhill School Ltd (SC011011)	2012	Review suspended
50. Struthers Memorial Church (SC006960)	2012	Review suspended

Appendix B

Case study 1: large city-centre day school SC000123 Robert Gordon's College

1. About the school

Robert Gordon's College, Aberdeen, is an all-through day school and nursery for pupils aged three to 18 years. In summary, its purposes are to offer primary and secondary education and to provide playing fields and other accommodation for sports and recreation for use in connection with the school.

OSCR's review on focussed on the school's financial year 2011-12. At that time:

- It had a school roll of 1,567 pupils with a further 40 nursery pupils.
- Its annual nursery session fees were £7,470 (full-time) and its annual school fees ranged from £8,242 (average junior fee) to £10,215 (senior fee).

The main benefit provided by Robert Gordon's College is the education of its pupils, for which it charges a fee. The school follows the Curriculum for Excellence from nursery level onwards, with pupils ultimately working towards qualifications in Standard Grade, Intermediate 1 and 2, National 4 and 5, Highers and Advanced Highers in the senior school. Additionally, pupils may take part in co-curricular activities including sporting, arts and outdoor activities, as well as the Combined Cadet Force and The Duke of Edinburgh Award.

2. Benefit which is not charged for

In addition, the school provided evidence of a notable level of benefit for which it makes little or no charge. These activities regularly provide benefit to the wider public in furtherance of the school's purposes by providing access to its services and facilities. For example, the school:

- Allows local hockey and cricket clubs to use its sporting facilities on a regular basis.
- Allows commercial sports camps to use its facilities during school holidays.
- Allows National Programme sports coaches to use its facilities on a regular basis.
- Organises an annual cross country event for schools in Grampian.
- Provides PE staff to coach district teams, run sports courses and organise tournaments and events across a range of sports.
- Makes the school's dance facilities available to a local school on a weekly basis.
- Provides support to external pupils sitting SQA courses.
- Allows state school pupils applying to high tariff universities to participate in the school's preparation programme.
- Invites external pupils to careers events and its Oxbridge entrance presentation.

- Provides its facilities and administrative support to external pupils as testing centres for examinations.
- Contributes to national educational improvement and development by encouraging staff to participate in national examination marking and development, curriculum development and to contribute to educational boards and committees.
- Shares resources and good practice with other schools and takes part in a variety of educational committees.
- Contributes to the professional development of teachers and early years' practitioners by delivering training events, conferences and providing placements.
- Hosts events open to the public including the Institute of Physics Schools and Colleges lecture, a science open day, music workshops and debating competitions.

3. Financial assistance provided by the school

The school offers both means-tested and non means-tested fee remissions to its pupils. Means-tested access arrangements have the most significant impact on opening up access that is restricted due to the fees charged, as these awards are primarily focussed on addressing financial need.

	Means-tested	Non means-tested
Percentage of available income expended	8%	5.8%
Sum expended	£1,161,211	£841,905
Number of pupils benefitted	158 pupils	457 pupils
Percentage of main school roll benefitted	10.1%	29.2%
Additional information	Focussed mainly on bursaries of 100% (benefitting 5.3% of the main school roll)	Included sibling discounts, staff discounts and scholarship awards

Case study 2: Steiner school

SC002109 Edinburgh Steiner School Trust Limited

1. About the school

Edinburgh Steiner School is an all through day school and preschool for pupils aged three to 18 years. In summary, its purposes are to operate a school to advance the education of children in accordance with principles enunciated by the late or Rudolf Steiner of Dornach, Switzerland.

OSCR's review on focussed on the school's financial year 2011-12. At that time:

- It had a school roll of 203 pupils with a further 43 nursery pupils.
- Its annual nursery session fees ranged from £1,683 (2 sessions per week) to £3,255 (4 or 5 sessions per week) and its annual school fees ranged from £5,027 (average junior fee) to £7,103 (average senior fee).

The main benefit provided by Edinburgh Steiner School is the education of its pupils, for which it charges a fee. The preschool offers a play and activity-based kindergarten and, in the main school, pupils follow a core 'main lesson' programme for up to two hours each day; these provide a context for learning key skills in reading, writing, science and maths. National exams are taken in the senior school, with a mixture of English and Scottish qualification board examinations offered.

2. Benefit which is not charged for

In addition, the school provided evidence of a limited level of benefit for which it makes little or no charge. These activities provide some benefit to the wider public in furtherance of the school's purposes by providing access to its services and facilities. For example, the school:

- Contributes to professional development of teachers, probationary teachers, early years' practitioners and those with a general interest in taking up teaching as a profession by providing work experience and training events and hosting student teachers from abroad.
- Is a partner in a community garden project which allows pupils to learn through working in the garden and attending related events.
- Provides use of its facilities to local groups such as an acrobatic club and an orchestra. It has also hosted a story-telling event which was open free of charge to local children.
- Was closely connected to the British Council's Comenius Programme which facilitates exchanges of staff, pupils and experiences between schools in Europe.

3. Financial assistance provided by the school

The school offers both means-tested and non means-tested fee remissions to its pupils. Means-tested access arrangements have the most significant impact on opening up access that is restricted due to the fees charged, as these awards are primarily focussed on addressing financial need.

	Means-tested	Non means-tested
Percentage of available income expended	4.6%	0.3%
Sum expended	£67,155	£4,139
Number of pupils benefitted	30	4
Percentage of main school roll benefitted	12.2%	2%
Additional information	Bursaries are generally offered at set levels (33% or 40%) although more can be offered in exceptional circumstances.	These awards are made to families of existing pupils where a change of circumstances arises may jeopardise the pupils' ability to remain at the school.