

**Notice of decision on individual review of charitable status
SC007756 The International School Of Aberdeen Educational Trust Limited**

1. Decision

Following an inquiry under section 28 of the Charities and Trustee Investment (Scotland) Act 2005 (the 2005 Act), we are pleased to confirm that The International School Of Aberdeen Educational Trust Limited (The International School of Aberdeen) meets the charity test and therefore continues to be eligible to be registered as a charity in Scotland.

2. Summary of assessment against the charity test

The International School of Aberdeen's purposes as set out in Clause 3 (a) of its Memorandum and Articles are:

To acquire, purchase, erect, take on lease, obtain licences to occupy, maintain, manage, develop or carry on in Scotland or elsewhere in the United Kingdom, schools for boys or girls or boys and girls of any nationality to supply a sound general education and instruction of the highest class together with physical and moral training to pupils attending the school or schools, to promote education generally, and in pursuance thereof to employ headmasters or headmistresses, principal teachers, lecturers, teachers and others.

We are satisfied that:

- these purposes are charitable;
- the charity's activities provide public benefit in furtherance of those purposes;
- there is no evidence of any significant disbenefit arising in consequence of the charity exercising its functions;
- that, on balance the public benefit provided by the charity outweighs the private benefit which various individuals and organisations also gain from it
- the conditions on accessing the benefit are not, on balance, unduly restrictive.

In assessing The International School of Aberdeen against the charity test, we have had particular regard to the benefit it provides in furtherance of its purposes (both benefit which is charged for and benefit which is not charged for); the conditions on accessing that benefit, both in terms of the fees it charges its beneficiaries; and its admissions policy. We have also considered that admissions policy in the context of private benefit to individuals and organisations.

Background

The International School of Aberdeen has a number of features which set it apart from the other independent schools whose charitable status we have reviewed. It is an all-through, co-educational day school for pupils aged five to 18 years. It also has a

preschool for boys and girls aged three to five years. The school was established following the growth of the oil industry in the Aberdeen area in the 1970s to meet the educational needs of the children of internationally mobile employees of the oil industry. The school's curriculum reflects the needs of this group particularly. It replaced the former American School of Aberdeen.

Title to the premises in which the school operates is held by Paloak Ltd, a company, the shares of which are held by 19 oil industry companies, which have the right to appoint Paloak's directors.

The International School Of Aberdeen Educational Trust Limited is a company limited by guarantee. Its articles provide for three out of a maximum of eight School Board members (who are also the company directors and the charity trustees of the charity) to be appointed by the Corporations with the largest to the fifth largest number of children entered for and attending the school when the relevant director vacancy occurs. Another director may be appointed by the Corporations with the sixth to the tenth largest number of children at the school. There is a further external director, and another three elected by the company at its AGM.

According to The International School Of Aberdeen Educational Trust Limited's annual report and accounts for the year ending July 2012, three of its directors were also directors of Paloak.

During the financial year 2011-12 (which formed the basis of our assessment, as it was the most recent financial year for which complete financial information was available), the school had a school roll of 457 pupils with a further 41 nursery pupils. The school's gross unrestricted income during the year was £7,536,359; we have used this figure for the purposes of our assessment.

The school operates a two tier fee structure of a standard and discounted rate.

Category of pupil	Applicable fee	Percentage of roll
Children who are dependents of internationally-mobile employees of the Paloak shareholder companies	Standard rate fee applies but this is paid either in full or part by the employer company as part of employee remuneration package	42%

Children who are dependents of internationally-mobile employees of other oil companies (not connected with Paloak)	Standard rate fee applies but this is paid either in full or part by the employer company as part of employee remuneration package	29.5%
Children who are dependents of self-financing families (include local children as well as dependents of oil company employees (Paloak and non-Paloak) who do not receive payment of school fees as part of their remuneration package)	Eligible for discounted rate school fees (50% less than standard rate).	16%

a) Benefit which is charged for

In 2011-12, the school's standard rate annual nursery fees were £7,080 (full-time). Its annual school fees ranged from £17,210 (average junior day fee) to £18,830 (average senior day fee). The school's average junior and senior standard rate day fees were considerably higher than the average fees for Scottish Council of Independent Schools (SCIS) day schools in 2011-12¹ (£9,182 and £8,876 higher respectively). However the fees are comparable to those of other international schools in the United Kingdom². Nevertheless, it should be noted that the comparison is made for the purposes of context only. In both cases the comparator fee is substantial and represents a restrictive condition on accessing the benefit provided by the school. In order for public benefit to be provided, there must therefore be significant mitigation of the school's fees in place if they are not to be undue.

The International School of Aberdeen provides benefit to its pupils which is charged for. In terms of educational benefit, the nursery (Pre-School) follows a play-based curriculum based on internationally accepted standards. Pupils in the school work towards High School Diplomas and Honours Diplomas or the International

¹ Indicative average fees for SCIS schools analysis at August 2011, www.scis.org.uk
(Note: comparison has been made with average day fees charged by day schools

² As listed on the Council of International Schools website www.cois.org

Baccalaureate qualification, with specialist tuition as appropriate. In addition, pupils may take part in a wide range of co-curricular activities including numerous sporting activities; girl and boy Scouts; Spanish and music clubs; and junior and senior choirs.

b) Benefit which is not charged for

In addition, the school has provided evidence of benefit for which it makes little or no charge. These activities 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:

- Provides regular access to its swimming pool to various swimming groups for nominal charge. Over 1000 swimmers, on average, benefit from this per week.
- Provides regular access to its other sporting and fine arts facilities for a nominal charge. Examples include soccer, fencing and drama clubs. Approximately 350 children benefit from this per week.
- Hosts annual events in which local and international children are involved. Examples include basketball festivals as well as the Aberdeen International Youth Festival, The Association for Music in International Schools festival.

It is clear that these activities are regular and, in general, benefit a very high number of beneficiaries. These types of activities mitigate to some extent the restrictive nature of the fees charged by the charity for part of the benefit it provides.

c) Facilitated access to benefit

In addition to the benefit provided for which there is little or no charge, the school mitigates the impact of the fees it charges by offering 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. However, our assessment has also had regard to the impact of non means-tested awards and discounts offered by the school.

Corporate support

In the year of review 71% of all pupils were in receipt of either full or partial corporate support from their parent's employer. These pupils would not be eligible for the means-tested bursaries or the discounted rate described below.

Means tested assistance

The school's spend on means-tested bursary provision in 2011-2012 amounted to 4.6% of its gross income. In total, 29 pupils, or 6.4% of the main school roll (excluding the nursery (Pre-School) pupils), were in receipt of a means-tested bursary award from the school which is a modest proportion given the scale of the standard rate fee charged.

Bursaries are only available to self-financing families. The remission is offered against the standard rate school fee that applies. Discounted-rate fee payers are not eligible to apply for means-tested bursaries. The discounted rate is fixed at 50% of the standard rate and self-financing families therefore have the option of applying for either option – but not both.

The bursaries awarded by the school in 2011-12 were of varying values, with the main focus being on bursaries of 41-80% and more and the highest number of awards being in the 61-80% bracket. Means-tested bursaries offered by the school are available for up to 100% of the standard rate fee. In the year reviewed, 29 pupils were in receipt of means-tested bursaries with two of these receiving a 100% remission. The school is not aware of any pupils being in receipt of means-tested financial assistance from external bodies at this time.

Category	Mitigation which applies	
<p>A. Children who are dependents of self-financing families (include local children as well as dependents of oil company employees (Paloak and non-Paloak) who do not receive payment of school fees as part of their remuneration package)</p>	<p>Eligible to apply for means tested assistance, calculated on the basis of the standard rate fee.</p>	<p>6.4%</p>
<p>B. Children receiving an International Baccalaureate</p>	<p>International Baccalaureate Scholarships cover the full fee and are awarded to pupils in grades 11 and 12</p>	<p>1.3%</p>

Scholarship	who qualify on the basis of exemplary academic work	
C. Teachers' children	Children of ISA teachers attend the school at no cost.	4.8%

Non-means tested assistance

The school also facilitates the access to the benefit it provides by offering a variety of non means-tested fee remissions to its pupils.

- Discounted rate tuition fee

The school offers a limited number of discounted rate tuition fee places to self-financing families. As mentioned above, these fees are set at 50% of the standard rate fee. Of those attending the school in 2011-12, 74 paid the discounted rate fee or 16.2% of the total school roll (excluding nursery pupils).

- International Baccalaureate scholarship awards

The school also facilitates the access to the benefit it provides by offering non means-tested International Baccalaureate (IB) scholarship awards. IB Diploma students may apply for a Scholarship to cover 100% of the Tuition Fees in grades 11 and 12. In 2011-12, the school spent 1.5% of its gross income on this non means-tested discount, which was awarded to 1.3% of the school roll (excluding nursery pupils). The scholarships are awarded on the basis of whether the student will bring exemplary academic work to the IB Programme and contribute to the positive social climate of ISA.

d) Private benefit

In assessing the charity OSCR must consider any benefit to persons other than as members of the public (also known as 'private benefit'). Such benefit should be necessary and/or incidental to the benefit provided in pursuit of the organisation's objects:

- By necessary, we mean that the public benefit that the organisation provides cannot realistically be provided without incurring the degree and kind of private benefit involved.
- By incidental, we mean that the private benefit arises as a secondary consequence of activity producing benefit to the public and is not an end in itself.

Paloak shareholder companies (of which there are 19) benefit from ISA through being able to guarantee a place at an International School as part of a remuneration package, by which means they can attract internationally mobile staff and thereby promote their business objectives. Benefit to shareholders underpins the ownership of the school by Paloak Ltd. At the last count, three of ISA's directors were also directors of Paloak.

There is evidence for this in the section on Preferential Terms for Admission in the Board Policies document submitted to us. This sets out how applications from families made on the standard rate basis may be prioritised through the admissions process prior to, and during, an academic year, in the event that the capacity of the school has been reached and there are no reasonable expansion possibilities. Families associated with Paloak shareholder companies will be given the highest priority for available places. Unsuccessful applicants have the option of being placed on a waiting list for available spaces. The clear implication is that benefit to Paloak shareholders underpins both the purpose for which the school was established, and criteria for admission.

However, benefit provided by the school is not confined to children of internationally mobile employees of the Paloak companies, since, firstly, admission to the school is open to children of employees of other companies in the oil and gas industry on a standard rate basis.

Secondly, it is also relevant that admission to the school is open to children who are not dependents of internationally mobile employees of Paloak or of other companies (though they will be accorded lower priority where capacity is under pressure than those connected to Paloak companies or other companies). The Trustees Annual Report for the year ending July 2012 sets out the context for the admission of these students. It notes risk to the charity from rapid fluctuations of enrolment and student turnover owing to changes within the international oil industry:

In order to further control the risk of enrolment fluctuations ISA has introduced a Discounted Rate in the Spring of 2010 which broadens access and allows the school to widen its potential market substantially

On the one hand, the admission of this group of children increases the viability of the school, and therefore the continuation of the benefit to children connected to the Paloak shareholders, and to the Paloak shareholders themselves. On the other, these children are admitted at a Discounted Rate, or are able to benefit from the means-tested assistance provided by the school. By contrast, where children of internationally mobile employees of Paloak shareholder companies are enrolled, they or their employers pay the full standard rate and are not eligible for means-tested assistance.

Summing up the private benefit considerations:

- families involved in the oil industry are likely to move around the world and therefore have a particular educational need for the type of schooling which this charity provides.
- it is likely that without the involvement of the Paloak shareholders the school would not have been established.
- the private benefit to the Paloak shareholder companies derives from provision of benefit to their employees, and having priority in the admissions policy of the school; the school's governance arrangements allow Paloak to influence the admission and other policies
- the benefit provided by the school in furtherance of its educational charitable purposes is not confined to children connected to Paloak shareholder companies, and mitigation of the fees is provided for these unconnected children.

On balance we conclude that, taking into account the nature and scope of the private benefit to Paloak shareholder companies from the school's activities, this private benefit is necessary and incidental to the provision of benefit to the public in furtherance of the school's purposes.

Undue restriction

As set out above, the charity's Board Policies Document gives priority, where the school's capacity is under pressure to, first of all, children whose fees at the standard rate will be paid by Paloak shareholder companies. After that priority is given to children connected to other oil and gas industry employers who will pay their fees at the standard rate. Finally, priority is given to children who are self-financing.

We note that capacity at the school has not been under sufficient pressure for this prioritisation to be invoked, and there has therefore been no shortage of places for those families wishing to self-finance.

We have considered the level of its income spent by the school on means-tested assistance; and the significant discount offered on the standard rate for self-financing families though this is not specifically targeted at those in financial need. Likewise, we acknowledge that the fees of the majority of students at the school are paid by their parents' employers as part of remuneration packages.

We acknowledge that the provision of educational benefit is very costly, and that because the school provides a specialised type of education (being an international school) the cost increases further. The school must be able to generate income which meets the charity's increased expenditure and we therefore acknowledge the significant reduction offered through the discounted rate.

We have also had regard to the level and impact of the benefit for which there is little or no charge; whilst the level of benefit is moderate, we consider it serves to open up access to large numbers of beneficiaries outwith the school.

Cumulatively, we consider that the school has put in place sufficient measures which mitigate the impact of the fees. We therefore do not consider that there are any unduly restrictive conditions on accessing the benefit provided by the school.

The International School of Aberdeen continues to meet the charity test.