

Notice of decision on individual review of charitable status SC009747 Edinburgh Merchant Company Education Board

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 Edinburgh Merchant Company Education Board 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

Edinburgh Merchant Company Education Board's purposes as set out in the Edinburgh Merchant Company Educational Endowments Scheme 1960, as amended 3 November 2011 are

- a) the advancement of education, particularly the education and advancement of children and young people;
- b) the advancement of the arts, heritage, culture and science;
- c) the advancement of public participation in sport;
- d) the provision of recreational facilities, or the organisation of recreational activities, with the object of improving the conditions of life for the persons for whom the facilities or activities are primarily intended;

and

- e) the advancement of citizenship or community development.

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 private benefit or disbenefit rising in consequence of the charity exercising its functions; and
- the conditions on accessing the benefit are not, on balance, unduly restrictive.

In assessing the Edinburgh Merchant Company Education Board against the charity test, we have had particular regard to the benefit it provides in furtherance of its purposes (both that which is charged for and that which is not) and the conditions on accessing that benefit, primarily the fees it charges its beneficiaries.

The Edinburgh Merchant Company Education Board is responsible for The Erskine Stewart's Melville Schools and for George Watson's College. For clarity, we have set out the situation of each of the school bodies separately; however our final conclusion is based on our assessment of the charity as a whole.

Erskine Stewart's Melville Schools

a) Benefit which is charged for

Erskine Stewart's Melville Schools have a co-educational Junior School for children between the ages of 3 and 12, single-sex secondary schools between the ages of 12 and 17 and a co- educational pre-university Sixth Form.

During the financial year 2012-13 (which formed the basis of our assessment, as it was the most recent financial year for which complete financial information was available), it had a school roll of 2,559 pupils. Approximately 1.9% of the school's roll were regular boarders. The school's gross income during the year was £25,250,014; we have used this figure for the purposes of our assessment.

In 2012-13, the school's annual school fees ranged from £6,987 (average junior day fee) to £18,792 (senior boarding fee). The school's junior and senior boarding fees were considerably lower than the average fees for Scottish Council of Independent Schools (SCIS) boarding schools in 2012-13¹ (£2,603 and £8,118 lower respectively).

Due to the very low percentage of boarding pupils, we found it more appropriate to compare the day fees charged by Erskine Stewart's Melville Schools with the average fees charged by day schools in the sector. In doing so, we found that both the junior and senior fees were notably lower than the average (£1,029 lower and £807 lower respectively). Nevertheless, these fees are substantial and represent 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 these fees in place.

Erskine Stewart's Melville Schools provides benefit to its pupils which is charged for. In terms of educational benefit, the school's pupils follow a broad curriculum with children sitting SQA exams in the senior school. The school offers a number of co-curricular activities and clubs in fields including the arts, sport, and community service.

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:

- Contributes to national educational improvement and development by actively supporting and facilitating staff participation in SQA examination marking and development, curriculum development and in contribution to educational boards and committees. The school also hosts around 25 student teachers per year.

¹ *Indicative average fees for SCIS schools analysis at September 2012, www.scis.org.uk*

- Manages and maintains the Arboretum Playing Fields, through a partnership agreement with the Local Authority. Under this agreement the school will be granted a long lease on the grounds for their own use and continued access by local schools and clubs. The school is investing over £450,000 in rebuilding the derelict pavilion to provide new changing facilities for all users. Two local schools use the grounds for rugby and football fixtures every Saturday and for mid-week matches. A local community youth football team uses the grounds every Sunday.
- Provides the full boarding, tuition and supplementary costs to enable a gifted musician from Romania to attend the schools as a boarder for one school year as the Silvestri Scholar. The cost of the Silvestri Scholarship for session 2013/14 is £35,003. Although not formally means tested, the Romanian Music Scholars could not possibly afford to attend ESMS without full funding. Silvestri Scholars take a programme of Highers in addition to receiving instrumental tuition from teachers from the Royal Conservatoire of Scotland, with all costs covered by ESMS.
- Provides use of its playing fields to the former pupils' sports clubs. These clubs use the facilities several times a week and provide benefit to a high number of players.
- Eight members of the schools' sixth form volunteered as 'Sports Buddies' at a local Primary School, providing sports coaching unavailable through local authority provision to local children once a week.
- Provides educational assistance to children in Malawi through fundraising to contribute to funding teachers, providing bursary assistance and construction of school buildings.

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.

The school spent 5.1% of its gross income, on means-tested bursary provision in 2012-13. In total, 226 pupils, or 8.8% of the school's roll, were in receipt of a means-tested bursary award from the school. The bursaries awarded by the school were of varying values, with the main focus being on higher-value bursaries of 60% and above and the highest number of awards being split equally across the 41-60% and 61-80% brackets. In total, 45 pupils or 1.7% of the school roll were in receipt of 100% bursary.

Additionally, the school facilitates access to the benefit it provides by offering non means-tested fee remissions to its pupils. In 2012-13, the school spent 1.9% of its gross income on non means-tested discounts which were awarded to 22% of the school's roll. This type of fee remission consisted of sibling discount, staff discount, advance fee payment discounts.

George Watson's College

a) Benefit which is charged for

George Watson's College is a co-educational all-through day school for children between the ages of 3 and 18. During the financial year 2012-13 (which formed the basis of our assessment, as it was the most recent financial year for which complete financial information was available), it had a school roll of 2,355 pupils. The school's gross income during the year was £20,828,851; we have used this figure for the purposes of our assessment.

In 2012-13, the school's annual school fees ranged from £6,993 (average junior fee) to £9,837 (average senior fee). The school's junior fee was moderately lower and the senior fees were marginally lower than the average fees for Scottish Council of Independent Schools (SCIS) day schools in 2012-13² (£744 and £336 lower respectively). Nevertheless, these fees are substantial and represent 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 these fees in place.

George Watson's College provides benefit to its pupils which is charged for. In terms of educational benefit the junior school follow a broad curriculum based within the Curriculum for Excellence framework with specialist subjects such as modern languages, art, drama, music and P.E. taught by specialist teachers. In the senior school pupils initially follow a broad curriculum for the first two years with specialist subjects being chosen in Third Year. Pupils work towards qualifications in Standard Grade, Intermediate 1 & 2, National 4 & 5, Highers, Advanced Highers and A Level. As an alternative to these qualifications, the school also offers the International Baccalaureate Diploma programme to S5 and S6 pupils. The school run a number of co-curricular activities including numerous sporting activities, drama, modern languages and musical instrument tuition and The Duke of Edinburgh Award.

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:

² ¹ *Indicative average fees for SCIS schools analysis at September 2012*, www.scis.org.uk
(Note that comparison has been made with average fees charged by day schools).

- Contributes to national educational improvement and development by actively supporting and facilitating staff participation in SQA examination marking and development, curriculum development and in contribution to educational boards and committees. The school also hosts around 30 -40 student teachers per year.
- Makes provision for two pupils from local state schools to study for and sit Advanced Highers which are not offered at their own schools. This is a regular and ongoing activity with around two pupils being accommodated in most years.
- Covers the full cost, £33,000, of a joint venture with a state school which involves S3 pupils from both schools taking part in a residential Leadership Academy on the Isle of Skye and working on projects in Edinburgh and Lothian. The residential experience and project work aim to develop core life skills for the pupils involved.
- Provides use of its sports facilities to Cubs, Brownies and Rainbows. This is a long-standing arrangement which sees more than 100 children use the facilities on a weekly basis.
- Provides use of its sports facilities to the Cubs, Brownies and Rainbows as well as local swimming, netball and football clubs. This is a long-standing arrangement which sees more than 800 children benefit from use the facilities on a weekly basis.
- Provides use of its sports facilities for a number of annual events such as local state primary school football tournaments and swimming galas as well as sports days.
- Provides use of its other facilities such as the assembly hall, music auditorium and classrooms to a number of other organisations on an annual or bi-annual basis. Users include the City of Edinburgh Education Department for training courses, a Scottish Charity for fundraising, a dance group for a folk dance festival and a music group for a Violin workshop.
- Participates in regular community service activities and fundraising for other charities. Community service activities include pupil placements at organisations such as dementia day care centres, state primary schools, playgroups and The Royal Blind School.

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.

The school spent 6.8% of its gross income on means-tested bursary provision in 2012-13. In total, 233 pupils, or 9.9% of the school's roll, were in receipt of a means-tested bursary award from the school. The bursaries awarded by the school were of varying values, with an even spread across high and low value bursaries. The highest number of awards were in the 41-60% brackets. In total, 39 pupils or 1.7% of the school roll were in receipt of 100% bursary.

Additionally, the school facilitates access to the benefit it provides by offering non means-tested fee remissions to its pupils. In 2012-13, the school spent 2.6% of its gross income on non means-tested discounts which were awarded to 9.9% of the school's roll. This type of fee remission consisted of sibling discount, staff discount, advance fee payment discounts and academic scholarships.

3. Conclusion

On balance, we conclude that Edinburgh Merchant Company Education Board has provided sufficient evidence that the impact of the fees charged by the schools for which it is responsible is mitigated by the provision of means-tested facilitated access and the provision of benefit for which there is little or no charge.

In reaching our conclusion, we have had regard to the level and impact of the benefit for which there is little or no charge; this serves to open up access to benefit for a wide range of beneficiaries outwith the school. In particular, we consider that the tuition of external pupils in Advanced Higher subjects by George Watsons college and provision of both school's facilities to external users to be activities which provide a substantial level of benefit which is not subject to a fee.

Additionally, while the proportion of its income spent on means-tested assistance by both schools combined is modest, the spread of the value of these awards is good. We have particularly noted the proportion of pupils in both schools in receipt of a full fee remission award which has the most impact on facilitating access to those on low incomes.

Cumulatively, we consider that these measures serve to mitigate the impact of the fees charged by the schools. We therefore do not consider that there are any unduly restrictive conditions on accessing the benefit provided by the schools and public benefit is provided. Edinburgh Merchant Company Education Board continues to meet the charity test.

22 January 2014