

**Notice of decision on individual review of charitable status
SC009352 St Mary's School, Melrose**

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 St Mary's School, Melrose meets the charity test and therefore continues to be eligible registered as a charity in Scotland.

2. Summary of assessment against the charity test

St Mary's School, Melrose's purposes as set out in Clause 3 of its Memorandum and Articles of Association (dated 31 October 1945), are:

To provide a school for the education of pupils under 13 years old of either sex.

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 arising in consequence of the charity exercising its functions; and
- the conditions on accessing the benefit the charity provides are not, on balance, unduly restrictive

In assessing St Mary's School, Melrose 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.

a) Benefit which is charged for

St Mary's School, Melrose is a co-educational preparatory day and boarding school for children aged five to 13 years. It also has a nursery for boys and girls aged two to five years. 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), it had a school roll of 120 pupils with a further 31 nursery pupils. The school's unrestricted gross income during the year was £1,343,954; we have used this figure for the purposes of our assessment.

In 2011-12, the school's annual nursery session fees were £6,800 (full time). The average annual day school fees were £10,996 and the average annual boarding school fees were £15,450. The school's average day fees were slightly lower than the average day fees for Scottish Council for Independent Schools (SCIS) boarding schools in 2011-12¹ (£281 lower). The school's average boarding fees were £3,243 lower than the SCIS average for junior boarding. 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.

St Mary's School, Melrose provides benefit to its pupils which is charged for. Children in the school follow a curriculum based around the Curriculum for Excellence and National Curriculum. Specialist teaching takes place at the appropriate stages in various subjects including modern languages, art, music and drama. The school also offers a large number of co-curricular activities including clay pigeon shooting 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 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:

- Hosts an annual Science Festival which is open to all local schools and the general public. Approximately 2,000 people attend this event each year.
- Hosts an inter-schools event that runs annually and involves teams from local primary schools taking part in various activities that challenge the pupil's mental and physical abilities as well as teamwork and initiative. Around 70 children from 15 local schools take part each year
- Provides use of its facilities for externally run classes such as ballet and drums, around 40 children attend such classes per week.
- Provides use of sports fields for local community for events such as Cricket and Rugby tournaments. During the year of review this included a mini rugby annual tournament which involved approximately 500 children from the Borders, and a rugby and netball tournament involving 120 pupils from local primary schools.
- Hosted pupils from a local Primary School for a netball coaching session and this involved around 30 girls.

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

In assessing the benefit offered by the school which is not charged for, we have had particular regard to the relatively small size of the school and the fact that its resources will consequently be limited. Additionally, we are aware that the opportunities for junior schools to provide benefit which is not charged for may be more limited than for secondary or all through schools.

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 13.8% of its available gross income on means-tested bursary provision in 2011-12. In total, 37 pupils, or 30.8% of the school's roll (excluding the nursery pupils), 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 lower-value bursaries of 40% and less and the highest number of awards being in the 21-40% bracket. Means-tested bursaries offered by the school are available up to 100% of fee remission, in the year reviewed 1 pupil, or 0.8% of the school roll (again, excluding nursery pupils) were in receipt of an award of 100% fee remission.

Additionally, the school facilitates the access to the benefit it provides by offering non means-tested fee remissions to its pupils. In 2011-12, the school spent 6.8% of its gross income on non means-tested discounts which were awarded to 37.5% of the school's roll (again, excluding the nursery pupils). This type of fee remission included sibling and staff discounts.

The school is also a nursery partner provider, meaning that children who are eligible will receive part of their nursery fee from the local authority (up to a maximum of 15 hours per week). During the assessment year 30 pupils benefited from this type of funding to the total value of £26,404. This initiative serves to facilitate access to the benefit provided by the school, albeit it is not primarily directed at those in financial need.

d) Conclusion

On balance, we conclude that St Mary's School, Melrose has provided sufficient evidence that the impact of the fees charged by the school is mitigated by the provision of means-tested facilitated access and to a lesser extent by the provision of benefit for which there is little or no charge.

In reaching our conclusion, we have had particular regard to the proportion of its income the school spends on means-tested bursary support and the number of children in receipt of such assistance. Though we note that the majority of awards in place are for relatively low percentages of the total fee, assistance at up to 100% of the fees is available and such awards are made.

Cumulatively, we consider that these measures serve to mitigate the impact of the fees charged by the school. We therefore do not consider that there are any unduly restrictive conditions on accessing the benefit provided by the school and public benefit is provided. St Mary's School, Melrose continues to meet the charity test.

22 January 2014