

DRAFT MINUTES

OSCR BOARD MEETING

Held on 16 June @ 09.15 am

Balmoral Hotel, Edinburgh

Present: John Naylor, Chair
 Frank Kirwan, Deputy Chair
 Martin Crewe, Board Member
 Lindsay Montgomery, Board Member
 Iris McMillan, Board Member
 Annie Gunner, Board Member

In attendance: Jane Ryder, Chief Executive
 Marieke Dwarshuis, Head of Charities
 Quentin Fisher, Senior Legal Adviser

		ACTION
1	<p>Minutes from previous meeting</p> <p>Minutes of the previous meeting, including adjustments to the draft, were agreed.</p>	
2	<p>Declarations of Interest</p> <p>The following were declared at the outset:</p> <p>Chair – Involvement with Scouts, a membership organisation. Trustee of Scottish Hospital Endowment Research Trust.</p> <p>Deputy Chair – Member of Audit Committee of an international charity which may require to register with OSCR, University lecturer (relevant to University pilot re. fees and possible private benefit of non publicly funded research).</p> <p>Lindsay Montgomery – Currently paying private school fees.</p>	

	<p>Martin Crewe – Director of a charity which charges fees for some activities and has a trading subsidiary and an employee of a “cross border” charity.</p> <p>Annie Gunner – Chief Executive of a membership organisation whose members, being charities, charge fees and a trustee of a “cross border” charity.</p> <p>Iris McMillan – Board member of Learning and Teaching Scotland, a charity subject to directions under s 7.</p>	
3	<p>The Charity Test – Unduly Restrictive Conditions</p> <p>(a) The Board first considered the policy statement and agreed this was a very helpful statement of the position which had been reached following the previous meetings. There was a discussion of a range of issues arising, particularly whether and, if so, to what extent OSCR should be looking to charities to specifically target low income groups in facilitating access. Conclusions were incorporated in revisions to the policy statement.</p> <p>(b)(i) It was noted that in principle access to benefit not subject to charge could be sufficient to allow a charity, which charges high fees for other benefits, to demonstrate it complies with the charity test.</p> <p>(b)(ii) The Board noted that charities need not be restricted to a single charitable purpose. Charities may wish to consider broadening their purposes to increase the extent to which their activities provide public benefit as defined by the charity test.</p> <p>(c) Having agreed the principles, the Board then considered the application of principles in the pilot study assessment. In discussion the Board:</p> <ul style="list-style-type: none"> i. Considered eligibility for facilitated access in more detail. It was agreed that take-up of a scheme for access was not within a charity’s control, and that a certain pattern or minimum level of take up (for example by those on the lowest incomes) could not therefore be a requirement. However, where provision is made for facilitated access, take-up by those on low incomes is the best evidence of such facilitation being effective. If there was no take-up evidenced, this would result in additional enquiry and assessment and it would be for the charity to explain the circumstances and demonstrate why 	

	<p>conditions were not unduly restrictive.</p> <p>ii. Confirmed that because organisations must be considered on a case by case basis, it was not possible to establish specific ratios of fees in relation to discounted/free places or in relation to indirect benefit, since this would fetter OSCR discretion. However, in the assessment process and in publishing pilot and future decisions, OSCR could identify and promote examples of good practice.</p> <p>iii. The pilot process has thrown up a number of issues (not restricted to schools) which would merit additional work and research including the opportunity to expand on the principles agreed and what OSCR would expect to see from particular types of charity.</p> <p>It was agreed staff would provide revised material, including a revised communication strategy, for the next Board Meeting on 5 July at which the policy statement, pilot decisions and further timetable would be progressed. This further timetable would include consultation on revised charity test guidance as a whole including more detailed guidance on various areas (not restricted to unduly restrictive conditions) in light of the past year's experience and the Board's recent debates.</p>	<p>Chief Executive & Head of Charities</p>
4	<p>Concordats</p> <p>The Board approved the Concordat with the SPSO, subject to clarification whether it remained appropriate to include the Scottish Hospital Endowment Research Trust.</p>	<p>Chief Executive</p>
5	<p>Cross Border Charities</p> <p>The Board considered the letter of 21 May 2007 from the Charity Commission on the subject of cross border charities and the possibility of Ministerial exemption under section 7. The Board reviewed the arguments for and against and considered the significant difference in charitable purpose between the jurisdictions, and agreed there was no change to the policy previously agreed, which had been acted upon. Agreed the Chief Executive should respond to the Charity Commission, noting the Board's advice to Ministers had included an indication that although no blanket exception was advised, there may be individual circumstances that warrant exemption. It was also agreed that Ministers should be advised.</p>	<p>Chief Executive</p>

7	CONCLUSION Finally the Board complimented the staff on the quality of the papers. The Chair thanked everyone for such a constructive discussion which had established a clear way forward in this extremely complex area.	
8	The meeting finished at 1.00 p.m.	