

**Notice of decision on individual review of charitable status
SC003962 The Kelvinside Academy War Memorial Trust**

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 Kelvinside Academy War Memorial Trust (Kelvinside Academy) 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

Kelvinside Academy's purposes as set out in Clause III B of its Memorandum of Association (as adopted by Special Resolution on 9 September 2008) are:

...to carry on The Kelvinside Academy ("the School") as a co-educational school and to generally advance and promote the education of the pupils attending the School and promote education and for that purpose to manage the School and its buildings and educational institutions of all kinds...for the use of teachers, students, pupils and others attending the School or having the benefit of the use of the facilities above defined.

Clause III (ix) further states that:

It is declared that the Trust was originally established to carry on the School as a memorial to those former pupils of the School who gave their lives during the Great War of 1914 to 1918 and it shall always be the duty of the governing body and all members of the Trust to preserve the memory of those who gave their lives and to make such arrangements as shall ensure that the pupils present and future of the School and all persons connected with it shall know and appreciate the circumstances under which the Trust was created.

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 are not, on balance, unduly restrictive.

In assessing Kelvinside Academy 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

Kelvinside Academy is an all-through, co-educational day school for girls and boys aged five to 18 years. It also has a nursery for boys and girls aged three to five years. 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 an average school roll of 545 pupils with a further 26 nursery pupils. The school's gross income during the year is projected to be £5,042,445; we have used this figure for the purposes of our assessment.

In 2012-13, the school's annual nursery session fees were £6,600 (full-time) and its annual school fees ranged from £8,098 (average junior day fee) to £10,086 (average senior day fee). The school's average junior and senior day fees were in line with the average fees for Scottish Council of Independent Schools (SCIS) day schools in 2012-13¹ (£82 higher and £87 lower for average junior and senior fees 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.

Kelvinside Academy provides benefit to its pupils which is charged for. In terms of educational benefit, the nursery follows the Curriculum for Excellence - Early Stage. Pupils in the school work towards qualifications in Standard Grade, Intermediate 1 & 2, National 4 & 5, Highers and Advanced Highers, with specialist tuition as appropriate.

In addition, pupils may take part in co-curricular activities covering sports and the arts as well as the Duke of Edinburgh, Young Enterprise Programmes and the Combined Cadet Force.

b) Benefit which is not charged for

In addition, the school has provided evidence of a high level 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 facilities (including its theatre, sports pavilion, hall and pitches) to many different clubs. These are too numerous to list but cover a wide variety of groups whose aims include the advancement of education of young people and that benefit very large numbers of children on a regular basis. Additionally, the school also provides ad hoc use of its premises and mini-buses to benefit other youth arts and sports organisations.
- Makes provision for five pupils from a local state school to study for and sit Advanced Higher sciences at the School. This is a new activity (having commenced in August 2012) that the school intends to continue.

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

- Contributes to national educational improvement and development by allowing staff to participate in educational forums and committees, marking and setting national examination papers and hosting placements for student teachers and work experience candidates.
- Makes its facilities available as an examination centre for SQA exams and the Associated Board of the Royal Society of Music. This activity benefits approximately 15 to 20 external pupils each year.
- Provides staff resources to deliver sports coaching at regional and national level.
- Arranges for senior pupils to provide tutoring to children from an inner city primary school through the Voluntary Tutors Organisation Glasgow on a weekly basis benefiting, on average, nine primary aged children.

It is clear that these activities are regular, scheduled and provide benefit to a very large number of children for little or no fee. These types of activities mitigate to an extent the restrictive nature of the fees charged by the charity for part of the benefit it provides.

As well as providing benefit in furtherance of its educational purpose, Kelvinside Academy undertakes activity in furtherance of the advancement of heritage. It does so primarily through the preservation of the school as a memorial to those former pupils who gave their lives during the First World War; the main school building is an historic Grade A listed building which has been subject to a major renovation project between 2009 and 2011 in keeping with the objects of the charity.

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 a moderate sum in 2012-13 on means-tested bursary provision; this amounted to 6.4% of its gross income. In total, 53 pupils, or 9.7% of the school's average roll (excluding the nursery pupils), were in receipt of a means-tested bursary award from the school which again is a moderate figure. The bursaries awarded by the school were of varying values, with the main focus being on bursaries of 41% and more and the highest number of awards being in the 21-60% bracket.

Means-tested bursaries offered by the school are available up to 100% of fee remission and are awarded solely on the basis of financial need. In the year reviewed (2012-13), five pupils (0.9% of the school's roll) were in receipt of a 100% award. The school also

advised us that two further pupils had their full fees funded (to the total value of £18,270) from a foundation outwith the school.

Additionally, the school facilitates the access to the benefit it provides by offering non means-tested fee remissions to its pupils. In 2012-13, the school spent 4.4% of its gross income on non means-tested discounts which were awarded to 5.1% of the school's average roll (again, excluding the nursery pupils). This type of fee remission included a small number of academic scholarships, sibling and staff discounts (the staff discounts included are paid on a contractual legacy basis as, from 2009, the school began to means-test any applications for these types of remissions).

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. These grants have been awarded to 30 pupils and their cumulative financial value in the 2012-13 school year is £32,755. 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 Kelvinside Academy 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 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 frequent use of the school's premises and resources by external groups and the tuition of five external pupils in Advanced Higher subjects are activities which provide a substantial level of benefit which is not subject to a fee.

Additionally, while the proportion of its income spent by the school on means-tested assistance is moderate, the spread of the value of these awards is good with the main focus being on higher-value remissions. These types of remissions have more impact on facilitating access to benefit for those on low incomes.

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. Kelvinside Academy continues to meet the charity test.

1 May 2013