

**Notice of decision on individual review of charitable status
SC033774 Springvale Education Trust (operating as Focus School – Millden
Campus)**

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 Springvale Education Trust (hereafter referred to as Millden Campus) 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

Millden Campus' purposes are set out in Clause FOURTH of the Trust Deed (dated September 2002):

(One) The advancement of the education of children of the Brethren (as hereinbefore defined) and at the sole discretion of the Trustees other children who are not children of the Brethren and without limiting the generality of the foregoing:-

(a) to provide assistance to parents or guardians who wish to educate their children otherwise than at school within the provisions of the Education (Scotland) Acts and any other relevant legislation or the education of children beyond compulsory school age or for children who have learning difficulties; and

(b) to establish where the Trustees consider it to be necessary or desirable a school either primary or secondary for the education of such children

(Two) Any other charitable purpose whether educational or otherwise connected with the Brethren.

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 Millden Campus 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) Background

As noted above, this charity is predominantly established to advance the education of the children of the Brethren. The Brethren adhere to Christian teachings that are derived from the Old and New Testaments, using the King James version (1611) and a translation of the Bible by JN Darby. The followers of JN Darby have traditionally been referred to as the 'Exclusive' Brethren, 'Plymouth' Brethren or the 'Taylor Symington-Hales' Brethren (Brethren) but now describe themselves as the Plymouth Brethren Christian Church (PBCC). Central to their beliefs is the doctrine of separation from evil and, to this end; they separate themselves to some extent from the world.

b) Benefit which is charged for

Millden Campus is a co-educational all through day school for children aged six to 18 years. Its purpose is achieved primarily by the education of children belonging to the PBCC. 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 41 pupils. The school's unrestricted gross income during the year was £617,063.

Rather than having a fee structure, charity trustees advised us that Millden Campus asks parents to make a voluntary contribution to support the funding of the school based on the number of their children attending the school. In 2011-12, the contribution requested by the school ranged from £1,500 for the first child to £750 for the fourth and any subsequent child from any one family.

The trustees take the view that the request for and payment of the contribution do not constitute a contractual arrangement between the parent and the school. No fee note is provided and the trustees state that no formal recovery action would be taken against parents who did not provide the contribution, nor would any student's education be prejudiced if the contribution was not paid.

The school has advised that the cost of educating a child at the school is £14,365 per annum. In 2011-12, the parental contribution therefore represented between 6% and 11% of the total cost of the education. We have considered whether the parental contribution, if treated as a fee or charge for access to the educational benefit provided by the school would constitute an undue restriction on that access. The contribution which is levied is not of a level which we regard to be restrictive and we therefore do not consider the school needs to mitigate it substantially.

Millden Campus provides educational benefit to its students. Pupils in the junior school follow the Curriculum for Excellence. At Year Seven, pupils enter a transitional year before beginning to follow the National Key Stages in the senior school where they are presented for GCSE, GCSE equivalent, vocational and GCE examinations at the appropriate levels. The school also offers a range of co-curricular activities including young engineers club, art club and a number of sporting activities.

c) 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 supporting and facilitating staff participation in national examination marking and curriculum development.
- Shares resources and expertise with other Focus schools which are an affiliated group of independent Brethren schools. This includes supporting the schools by delivering GCSE and A-Level teaching via video conference lessons, hosting young enterprise challenge and providing additional tuition for students outwith the school.
- Makes its facilities available as an examination centre for external candidates, for example those being home-schooled, or undertaking GCSE/GCE examinations.
- Fundraises for other charitable organisations, including MacMillan Cancer Support, Red Cross and British Heart Foundation.

Although the benefit for which there is little or no charge is relatively limited, we conclude that it is nevertheless of an acceptable level, taking into account the context in which this particular school operates (particularly the low level of contribution which is sought from the parents and due to the small size of the school).

d) Entry criteria and ongoing attendance

The purposes provide that the school is established to serve the children of the Brethren community and, at the sole discretion of the Trustees, children who are not of the Brethren community. The charity trustees have advised us that by 'the children of the Brethren', they mean 'children of school age who have parents who are in fellowship with the Brethren'.

The charity trustees have advised that being a child of the Brethren is not a requirement to attend the school, the important factor being rather the adherence to the ethos and guiding principles of the school. Millden Campus could not provide any examples of non-Brethren children attending the school. The trustees advised that they have received expressions of interest on behalf of potential students who were not children of the Brethren, but no formal application eventuated.

As part of our analysis of any disbenefit or harm which might arise from the charity's activities, we have carefully considered any application within the school of the Brethren community's disciplinary practices of 'shrinking' or 'excommunication' (also known as 'shutting up' and being 'withdrawn from'). The published decision of the Charity Commission for England and Wales (CCEW) on the registration of The Preston Down Trust describes the processes of 'shrinking' and 'excommunication' within the Brethren community¹. We have also explored with the school any consequences, for the pupil, if their parents were subject to the processes of shrinking or excommunication within the Brethren community.

The charity trustees have advised us that:

- Shrinking or excommunication are methods used by the Brethren community in general only as last resorts and are not applied to children under the age of 17.
- Where a child's parent or other family members were subject to shrinking or excommunication the child is still welcome at the school.

e) Facilitated access to benefit

Instead of operating a conventional bursary or scholarship scheme as seen in the majority of the other schools that have formed part of our review, Millden Campus offers each pupil a considerable reduction on the cost of his or her education.

¹ *Application for registration of The Preston Down Trust, Decision of the Commission, 2014, p.51*

The level of the contribution is a very low proportion of the cost of educating each child and, additionally, is very low when compared to the fees charged by other independent schools. The charity trustees also advise that arrangements are in place enabling parents to choose to make any contribution either in a lump sum or in instalments over the year.

In situations where parents are unable or unwilling to make the contribution, the charity trustees advise that they would try to reach a suitable arrangement. As an example, they explained that in one previous case the Brethren community have assisted a family by paying the contribution for the first child while the school assumed the cost of additional children in that family.

The element of the cost of running the charity which is not met from parental contributions is covered by grant funding from the Focus Learning Trust, donations from the wider Brethren community, and income gift-aided to the charity from the charity's non-charitable trading subsidiary. The Focus Trust is an England and Wales charity (1099725) to which Millden Campus and a number of other Plymouth Brethren schools in the UK, Northern Ireland and mainland Europe are affiliated. As well as financial support, it provides policy and curricular support for affiliated schools.

f) Conclusion

In reaching our conclusion, we have had particular regard to the fact that the parental contribution requested by the school is considerably lower than the sector average, that the contribution is not compulsory, and that a high proportion of the costs of providing the educational benefit of the school are met from outside sources.

While the level of activity the charity provides for little or no fee is limited, we have particularly considered the principle set out in our guidance that lower fees will require proportionately lower levels of mitigation to ensure that access to benefit is not unduly restricted.

Overall, we do not consider that the parental contribution itself constitutes an undue restriction on access to the benefit the school provides in furtherance of its educational purposes.

In addition we have considered carefully whether the focus on educating the children of the Brethren indicates that access to educational benefit within the school is unduly restricted. We have borne in mind the implications of the religious beliefs of the PBCC,

in particular the doctrine of separation, for the provision of education to children of the Brethren and non-Brethren. We have taken into account the statement of the trustees that access to education at the school is in principle open to non-Brethren children (though we note that this does not seem to happen in practice). On balance, bearing in mind the need to accommodate the beliefs of PBCC members, we do not find that access to the educational benefit the school provides is unduly restricted.

Finally, we have explored the processes of shrinking and excommunication by the Brethren community. If we had found evidence of the school using or complying with these types of disciplinary procedure in relation to the children and young people who are the charity's beneficiaries, the disbenefit arising from such activities might have outweighed the benefit being provided by the charity. However, we have had regard to the assurances provided by the charity trustees that these practices would only be applicable in extreme cases such as serious criminal activity and never to pupils aged under 17 years old. On the basis of these assurances, we consider that there is no evidence of actual disbenefit to set against the benefit provided by the charity in furtherance of its charitable purposes.

In conclusion, on the basis of the information available to us, we do not consider that there are any unduly restrictive conditions on obtaining the benefit provided by the school, nor is there evidence of disbenefit arising from its activities. Millden Campus provides public benefit and continues to meet the charity test.

OSCR

22 July 2014