**Notice of decision on individual review of charitable status**

SC011011 Fernhill School Ltd

**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 Fernhill Schoolmeets 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**

Fernhill School**’**s purposes are set out in Clause III of the Memorandum of Association (as amended on 4 July 1975) and 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 FernhillSchool 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**

Fernhill School is a day school for girls from four years to 18 years and a primary school for boys from four years to 12 years. It also has a nursery for boys and girls aged two to five years. During the financial year 2015-16 (which formed the basis of our assessment, as it was the most recent financial year for which financial information was available), it has a projected school roll of 160 pupils with a further 30 nursery pupils. The school’s gross income during the year is projected to be £1,505,175; we have used this figure for the purposes of our assessment.

In 2015-16, the school’s nursery session fees are £25.50 per half-day session and £44.30 per full day session and its annual school fees range from £9,050 (average primary school fee) to £10,253 (average secondary school fee). 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.

Fernhill School provides benefit to its pupils which is charged for. In terms of educational benefit, the school follows the Curriculum for Excellence with children sitting Standard Grades, National 4 & 5, Highers and Advanced Highers in the Secondary School. The charity also offers a variety of extra-curricular clubs and groups to give pupils a well rounded educational experience.

**b) Benefit which is not charged for**

In addition, the school has provided evidence of a limited 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 training placements for student Early Years Workers, student English and History/ Modern Studies Secondary Teachers and work experience placements for prospective student teachers.
* Runs a weekend Italian Club open to both pupils and members of public, supported by school staff and Italian Consulate staff. On average 10 pupils attend each week, six of whom are not Fernhill students.
* Provides staff to act as:
* SQA Markers (seven members of staff)
* SQA nominees for SCIS cluster schools to share learning across cluster school (six members of staff)
* SQA Verifier for National 3 History (one member of staff)
* Facilitates three Fernhill pupils per week in providing classroom support to pupils from a local authority school with severe physical and learning disabilities.
* Holds an annual careers evening to which local schools and families of the Fernhill community are invited. On average, ten pupils from three other schools attend these events.
* Takes part in activities to share resources and strategy with other schools:
* The school is a member of SCIS, WOSIS, West of Scotland Head Teachers, Catholic Teachers Head Teachers, and the Scottish Catholic Education Service.
* The school is currently in discussion with local schools with the aim of sharing Advanced Higher course provision in Chemistry, Biology, English and French. These activities are still at the planning stage, with no firm arrangements yet in place for the 2015-16 school year.
* The school was recently used by Education Scotland to hold an event to train 15 Associate School Inspectors; this activity contributes to furthering national educational standards.

Of these activities, those which have the most impact are the weekly Italian club, the weekly classroom support provided by Fernhill pupils and the school’s contribution to staff mentoring/training and the sharing of resources in the education sector. These activities are regular and provide benefit to a range of beneficiaries, including those outwith the school.

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.

**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 pupils in both primary and secondary school. 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 projects to commit a relatively high sum in 2015-16 on means-tested bursary provision; this amounts to 8.4% of its gross income. In total, 29 pupils, or 18% of the school’s roll (excluding the nursery pupils), were in receipt of a means-tested bursary award from the school which again is a high figure. The bursaries awarded by the school were of varying values, with the main focus being on bursaries of lower value (60% and less) and the highest number of awards being in the 41-60% bracket.

Although means-tested bursaries offered by the school are available up to 100% of fee remission, in the year reviewed no pupils were actually in receipt of a 100% award from Fernhill School (or, indeed, an award of greater than 80% fee remission). However, the trustees have confirmed that it is not a policy decision of the school to offer lower value bursaries; the awards in 2015-16 are reflective of the nature of the applications received for that school year and the level of assistance required by those applicants. The trustees advised that they have offered bursaries in the region of 81-100% fee remission but that none of those offers were accepted.

Additionally, the school facilitates the access to the benefit it provides by offering non means-tested fee remissions to its pupils. In 2015-16, the school will spend 12% of its gross income on non means-tested discounts which are to be awarded to 29% of the school’s roll (again, excluding the nursery pupils). This type of fee remission included family discounts, scholarship awards, staff discounts, and historic discounted fee and referral fee arrangements.

The school provides nursery provision in partnership with South Lanarkshire Council, meaning that eligible children are entitled to up to 15 hours of education per week funded by the local authority. In 2015-16, the school projects a budgeted figure of at least £25,000 local authority funding will be provided towards eligible children’s nursery education. This funding provides another form of facilitated access to the education the school provides.

**d) Conclusion**

On balance, we conclude that Fernhill School 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.

As was widely reported, Fernhill School encountered financial difficulties during the course of our review which led to a restructuring of its governance and financing. Our review has taken account of that restructuring and the subsequent steps taken by the trustees in their ongoing management of the charity.

In reaching our conclusion, we have had particular regard to the relatively high proportion of the school’s income spent on means-tested assistance and the high number of children in receipt of such benefit. Although in the year we reviewed the majority of bursaries are of lower-value (therefore having less impact on facilitating access to benefit for those on low incomes), we are satisfied that the trustees are committed to providing financial support to prospective pupils from a wide range of family incomes, including those on very low incomes.

We have also considered the level and impact of the benefit for which there is little or no charge. While the scale of these activities is less than that offered by some other similar charities we have reviewed, the trustees have demonstrated a commitment to a small number of scheduled, ongoing activities for which there is little or no charge. These activities serve to open up access to benefit for a range of beneficiaries outwith the school.

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. Fernhill School continues to meet the charity test.

18 June 2015