

Scottish Council for Voluntary Organisations, Edward House, 199 Sauchiehall Street, Glasgow G2 3EX
Supporting, promoting & connecting Scotland's third sector

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Registered office Mansfield Traquair Centre, 15 Mansfield Place, Edinburgh EH3 6BB.

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[redacted]

Subject: FW: Barclay review of business rates

From: [redacted]

Sent: 01 September 2017 14:51

To: [redacted]

Cc: Macdonald R (Roddy); Mitchell E (Elinor); Watson AA (Andrew); Campbell B (Bridget); Rollison R (Richard); Gil O (Oonagh); MacKinnon D (Donna); Hogg KJ (Kenneth); [redacted]

Subject: RE: Barclay review of business rates

Hi [redacted]

Thanks for the opportunity to comment on the recommendations of the review. We note your subsequent e-mail indicating that some of the recommendations which are likely to be more controversial, and, in particular from our point of view, recommendation 24 which relates to the removal of rates relief from a number of different types of charities, are to be the subject of further consideration. This e-mail therefore represents our initial thinking on the various recommendations which we had pulled together to meet your original deadline but we welcome the opportunity to be involved in further consideration of recommendation 24. It would be helpful to know what the process is likely to be from here on in, and how we can engage with it –both for the drafting of the statement on 12 September and for the further consideration of the more controversial recommendations.

[redacted]

- [redacted]

[redacted]

[redacted]

Recommendation 24 continues to cause us some difficulty. At present all OSCR registered charities are treated equally and are entitled to the same reliefs and benefits. Removing rates relief completely from independent schools and ALEOs would be the first time we have departed from this on the basis of category of charity and it would essentially create a 2 tier system for charities. We are not convinced that this would be desirable and it could be difficult to justify.

Independent schools in particular have already been the subject of a specific thematic review by OSCR, and have either (re-) met the charity test or have made the adjustments required to allow them to do so. In other words, their charitable status has already been the subject of greater scrutiny than that of other charities, including other educational establishments such as universities/colleges. Removing rates relief would mean that, despite this, we were creating a class of charities who receive less favourable treatment than others.

[redacted]

It could also be argued that the recommendation to remove the rates relief from some charities to bring them into line with other providers is inconsistent with recommendation 4 which proposes that all day nurseries (whether public, private or third sector) should receive 100% rates relief. We recognise that the argument here is that this would enable more people to return to work, but there is, frankly, no guarantee that nurseries would pass on the savings to parents by reducing their fees. There is a risk that the rates relief for nurseries would essentially be funded by removing rates relief from charities with no discernible benefit to parents and therefore to the workforce.

We assume that colleagues who lead on ALEOs, independent schools and universities and colleges will comment on the potential impact of what is proposed on these organisations, and those who use their facilities, and I have copied them in above. Our concern is with the integrity of the charity test and with the treatment of organisations which are legitimately classed as charities.

Thanks

[redacted]

[redacted]

Charity Law and Volunteering Team
Third Sector Unit
0131 244 [redacted]

Cc: Brown J (Joe); Mitchell D (David) (SPCD); Birt C (Christopher); Anderson S (Shirley); Macdonald R (Roddy); Mitchell E (Elinor); Grieve DA (Derek); Hamilton DW (Douglas); Morrell SJ (Sarah); Webster H (Helen); McHarrie C (Claire); Gosling C (Chris); Watson AA (Andrew); Cook F (Fiona); McKay CJ (Christine); Hamilton F (Fiona); Angus R (Roddy); Whyte R (Rebecca); Frodsham H (Hannah); McKay A (Alicia); White S (Stephen) (2); Clarkin A (Ashley); Haynes RJ (Robin); Burke A (Andrew); Reid P (Peter); Steed J (Jamie); McBride P (Pamela); Cairney A (Andrew); Owenson G (Graham); McLaren D (Douglas); Campbell B (Bridget); Greenhill R (Rosemary); Reid P (Peter); Sinclair N (Neil); Rollison R (Richard); Gil O (Oonagh); MacKinnon D (Donna); Hogg KJ (Kenneth)

Subject: Barclay review of business rates

Barclay review of business rates – SG response

As you know the Barclay review of rates was published on 22 August.

The Barclay review was discussed again at Cabinet this week and FM stated that she wanted Cabinet to “accept as many recommendations as possible”.

Programme for Government next week will (likely) accept 3 Barclay recommendations –

- 3 yearly revaluations (recommendation 2)
- new relief to remove rates from nurseries ((recommendation 4)
- an expansion of fresh start rates relief (which incentivises new occupation of empty commercial property) (recommendation 5).

The remaining 27 recommendations will be agreed to/ rejected as part of a Parliamentary statement on **12 September**. This is very tight. We had asked whether this date can be moved back but it cannot.

More detail on all recommendations can be found in this section of the report and a summary is below.

<http://www.gov.scot/Publications/2017/08/3435/5>

The review Groups remit had to be revenue neutral overall so they did look to raise tax in certain areas. This was not done in a way to penalise particular sectors, but was done to reduce known abuse or avoidance of the current system or to level the playing field where ratepayers carrying out the same activity and competing with each other were not treated equally in the current system. Many measures are aimed at bringing the public and private sectors into line to ensure the same taxes are paid when they both offer the same goods/ services to enable fair competition.

Many of these recommendations are administrative changes to the rating system or are for rates policy to lead on, but several cross into other policy areas and these are outlined below.

A list of the Barclay recommendations with overlap, the sector impacted and a brief commentary behind the groups thinking is below

Recommendation 21. 42 days reset period for empty property relief increased to 6 months.

Impact on Charities (reduces opportunity for charities to exist that advertise rates avoidance for empty properties in exchange for fees/ donation. Generally these charities are eventually removed from OSCR list, but others spring up in their place. For a recent example see <http://thirdforcenews.org.uk/tfn-news/charity-declared-bankrupt-with-1m-debts>)

Recommendation 22. Self-catering properties must prove actual let for 70 days. Currently those with second homes claim they intend to let them as holiday homes, but do not and so switch from council tax liability to business (non-domestic) rates but claim small business bonus thus avoiding payment of any local taxation.

Tourism (aimed at reducing an avoidance tactic for second homes, but potentially could impact on small numbers of genuine self-catering property where this is let less than 70 days)

Recommendation 24. Charity relief reformed. Currently an OSCR registered charity receives at least 80% relief.

Charities, universities, independent schools, council run sports/ cultural facilities (no change to charitable status, but recommendation prevents award of relief- as in Northern Ireland - to these bodies to create a level playing field. Brings all accommodation providers, such as Universities halls of residence into line with private sector hotels/ hostels who do pay full rates, independent schools into line with council schools and council run trusts that deliver sports facilities etc. into line with private sector).

[redacted]

[redacted]

[redacted]

From: [redacted]
Sent: 05 September 2017 14:05
To: Cabinet Secretary for Finance and the Constitution
Cc: [redacted]; [redacted]; McCaig C (Callum); [redacted]; MacKinnon D (Donna); [redacted]
Subject: Ministerial Briefing - Mr Mackay - Barclay- SCIS 7 sept



Ministerial Briefing - Mr Ma...

Please see attached brief for you meeting with Scottish Council for Independent Schools (SCIS) on 7 Sept.

I also attach a separate pdf of recent correspondence from SCIS.



SCIS 25 Aug letter- MACCS S...

- released in the FOI

Thank you

[redacted]

MINISTERIAL ENGAGEMENT BRIEFING: DEREK MACKAY

Engagement title	Non-domestic rates: Barclay review of rates- meeting with SCIS (Scottish Council for Independent Schools)									
Engagement timings	Thurs 7 September, 13.30-14.00									
Venue and full address	Parliament T4.07									
Background/Purpose	<p><u>Purpose:</u></p> <ul style="list-style-type: none"> • to hear from SCIS the potential impact of the Barclay recommendation to prevent charities. • John Edward write to you on 25 August - separate pdf attachment 									
Attendance	<ol style="list-style-type: none"> 1. John Edward, Director, SCIS (Scottish Council for Independent Schools) 2. Alan Hartley, Chair, SCIS (Scottish Council for Independent Schools) 									
Briefing	<table border="0"> <thead> <tr> <th><u>Annex</u></th> <th><u>Page</u></th> </tr> </thead> <tbody> <tr> <td>A: Purpose, Background and Key points</td> <td>2</td> </tr> <tr> <td>B: Response from individual private schools</td> <td>3</td> </tr> <tr> <td>C: Letter dated 25 Aug from SCIS</td> <td>separate pdf</td> </tr> </tbody> </table>	<u>Annex</u>	<u>Page</u>	A: Purpose, Background and Key points	2	B: Response from individual private schools	3	C: Letter dated 25 Aug from SCIS	separate pdf	
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C: Letter dated 25 Aug from SCIS	separate pdf									
Official support	[redacted]									

ATTENDEES & OPENING REMARKS

Purpose

The purpose of this meeting is to discuss the Barclay review of rates with the independent school sector (Scottish Council for Independent Schools) to allow their views to be heard before any SG response.

Barclay took oral evidence from SCIS (John Edward attended on 6 March 2017)

Background- Text of Barclay recommendation (number 24)

4.120 Independent (private) schools that are charities also benefit from reduced or zero rates bills, whereas council (state) schools do not qualify and generally will pay rates. This is unfair and that inequality should end by removing eligibility for charity relief from all independent schools. They will of course still retain charitable status and other benefits will continue to flow to them from that status. And Independent special schools will be eligible for disability rates relief where they qualify for this.

4.126 For the avoidance of doubt, removal of charitable status for any organisation is outwith the scope of this review and does not form part of this recommendation. All the organisations involved will of course continue to receive wider benefits of charitable status such as gift aid or differential VAT treatment. The vast majority of OSCR registered charities will see no change from this reform.

Key points

- Barclay is just a recommendation, SG will listen to views before accepting or rejecting. This is one of 30 recommendations.
- Special schools will generally be entitled to disabled persons rate relief (which at 100% is more generous than charity relief) regardless of whether they are in the public or private sector. Barclay recommends no change to this.
- SCIS argue that private schools should receive differential treatment because they reduce the burden on the public purse by removing pupils who would be otherwise educated in State schools from the system. **However, private hospitals reduce the burden on the NHS in exactly the same way, but pay rates.**
- SCIS argue that fees will be passed onto parents, but if the burden were shared equally fees would go up by around £160 per pupil per year. (£5 m rates burden shared by 30,000 pupils)
- Currently all OSCR registered charities receive rates relief (of a minimum of 80%). However the position with **water charges** is different and some OSCR charities are excluded by type (ALEOs) and by a turnover threshold. It is believed that no private schools receive any relief / rebate on water charges in Scotland.
- In Northern Ireland no education facility can receive any relief, including private schools.
- Barclay also suggested changes to Universities relief entitlement to bring these more into line with commercial ventures.

Annex B

SCIS (Scottish Council for Independent Schools) have not welcomed the Barclay recommendation that independent schools should no longer be eligible for charitable rates relief and are calling on the SG to reject this.

SCIS wrote to you on 25 August- the letter is attached as a separate pdf.

Below is a list of some of the comments made by the sector.

Melvyn Roffe, principal of George Watson's College in Edinburgh, said. *"It would be a bit perverse to end up with a bill, which in our case would be another £460,000 a year and that would inevitably end up on the fees. If you want the schools to be more elitist then the best way to do it is to lump on lots of extra costs and sure enough they will become more elitist – despite our best efforts not do."*

David Gray, head of Erskine Stewart's Melville Schools, said his schools funded bursaries for 150 children. *"If the 80 per cent reduction were to be removed that would have a considerable cost to the school and we would naturally have to pass that on to long-suffering and hard working parents who already saving the state a considerable amount of money by their children being educated outside the state system. We might have to raise the fees by one to 1.5 per cent – something like that."*

Lisa Kerr, principal of Gordonstoun in Moray, said it was difficult to understand why the private school sector had been singled out. She said: *"This proposed change can only have a negative effect on Scotland's economy and the education of its young people; it will disadvantage Scottish independent schools compared to those in England, and will impact on our ability to offer assisted places – the overwhelming majority of which are offered to Scottish students."*

Cameron Wyllie, principal of George Heriots in Edinburgh, said his school would have to find between £250,000 and £300,000 per year to pay the increased bill, putting fees up two or three per cent. *"Either you increase fees and increasing the fees has the effect of making private schools more elitist,"* Mr Wyllie said. *"Heriots is quite clearly a charity which has for four hundred years provided free education for the children of widows and widowers. Frankly, we would never remove that so our fees would go up."*

Rod Grant, headteacher at Clifton Hall School, Midlothian, said: *"If the Government presses ahead with implementing this recommendation, children from poorer families will be the unintended victims. Clifton Hall School currently supports over 60 children financially (a sixth of our school) and with an extra tax to pay it is these children who will likely pay the penalty. We currently award £350 000 per annum to this group, amongst whom are children that live in social housing and in single parent families."*

Elaine Logan, the Warden of Glenalmond College, Perthshire, said: *"These changes would make Scottish schools less competitive than their counterparts elsewhere in the UK, with serious consequences for pupils, teachers, support staff and third party suppliers. In an increasingly global market, it is important that Scottish schools are not at a disadvantage in attracting school-age pupils from the rest of the UK or elsewhere in the world."*

[redacted]

Subject: FW: Barclay

From: [redacted]
Sent: 12 September 2017 14:09
To: [redacted]
Subject: RE: Barclay

Hiya

Was on leave this morning so only just picking this up.

You will see that [redacted] has sent us a copy of the draft statement – just checked parliament website and looks like the statement will be at 2pm <https://bb.parliament.scot/#20170912>
I will try and tune in.

[redacted] in PO thinks the minute went from Cab Sec to Mr McKay, but they are just double checking and will ring me back to confirm – I will see if we can get a copy of the final version that went.

Spoke to OSCR yesterday – they have the same concerns as us, we can discuss tomorrow but v briefly their concerns are:

- 2 tier charity system
- Undermines the charity test
- [redacted]
- Not all schools that are supporting children with disabilities/ASN are registered as schools for the disabled, so not as clean cut as saying schools supporting children with additional needs will qualify for the disability rates relief.
- Overall they thought the report was making it seem like these changes would be easy and straightforward, but all the complexities/unintended consequences haven't been fully considered or explored.

[redacted]

[redacted]

I also asked about what other benefits there are from being a charity, and they confirmed that rates relief was one of the biggest (and a key driver for many registering).

Other benefits include:

- Gift aid (for those that fundraise)
- Water exemption
- Corporation tax exemption (and other tax exemptions)

They also mentioned that some funders will only provide funding if they are a registered charity.

Sorry that is all a bit rushed – but we can pick up properly when I am back in the office.

Thanks

[redacted]

[redacted]
Charity Law and Volunteering Team
Third Sector Unit
0131 244 [redacted]

[redacted]

From: [redacted]
Sent: 12 September 2017 14:59
Cc: Macdonald R (Roddy); Mitchell E (Elinor); Watson AA (Andrew); Campbell B (Bridget); Rollison R (Richard); Gil O (Oonagh); MacKinnon D (Donna); Hogg KJ (Kenneth); [redacted]

Subject: SG response to Barclay review of business rates

Importance: High

To note Cabinet Secretary for Finance will make a statement to Parliament today at 16.05. This will outline the SG response to the Barclay report.

In brief summary

- most Barclay recommendations will be accepted
- 2 will not be progressed (those relating to adding agricultural land will onto the valuation roll and levying rates on commercial agricultural processing)
- 5 Recommendations will be subject to more engagement with the outcome being confirmed towards the end of this year. This includes the recommendations that remove charity relief for certain recipients including ALEOs, independent schools and accommodation by universities, reform of relief for sports clubs, empty properties and properties in active occupation and the levying of rates on parks
- the nursery relief will be set at 100% (level hadn't been confirmed)

In addition he will also confirm a number of related policies including

- a continuation off the bill cap for hotels, pubs, restaurants and Aberdeen city/ shire offices at 12.5%
- A 60% relief for hydro schemes

The statement is attached along with a more detailed summary paper



2017-09-12 NDR Barclay Review of ministerial sta... Rates - Draf...

Please note that both documents are for internal circulation only

Grateful if any press queries on the announcement could be routed through this team (please copy in [redacted], [redacted] and [redacted]).

Thanks

[redacted]

[redacted]
