

Highfield Priory School Ltd
A public benefit assessment report by the Charity Commission



The Charity Commission

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The Charity Commission is the independent regulator of charities in England and Wales. In October 2008 we started a public benefit assessment in relation to Highfield Priory School Ltd. This is a report of our findings.

Section A: The purpose of this report

This report sets out the Charity Commission's findings from its public benefit assessment for Highfield Priory School Ltd ('the charity'), registered charity number 532262. You can find further information about what public benefit assessments are, how we carry them out, a glossary of terms and other details on the public benefit pages of our website.

Section B: Key details about the charity

Charity registration details

The school was founded in 1940 as a private non-charitable nursery. Its intake was extended to include children up to aged 11 (primary school leaving age). In 1973 Highfield Priory School Ltd was set up by parents to take over and carry on the school. It was registered as a charity in 1974.

Location and operation

The school of the charity is near Preston in Lancashire and it provides an education for day pupils.

Pupils

The school has 234 pupils on its roll aged 2 - 11. It includes a nursery for children aged 2 up until entry into the reception year, either within Highfield or at another school.

Admissions policy

The majority of pupils join at nursery age. Children who have not been at the nursery are assessed to ensure that they should be able to follow the curriculum successfully.

Curriculum

The school educates children through to Key Stage 2 of the National Curriculum.

Fees (2008/09)

Nursery (ages 2 - 4): £29.30 a day

Main school: £5,795 a year

Opportunities to benefit for those unable to afford the fees

Means-tested bursaries

None

Non means-tested assistance (Annex A, section 1)

Early Years Entitlement for nursery education covers the costs of five sessions of 2½ hours per week for all families with children aged 3 - 4.

Other opportunities to benefit provided by the school (Annex A, section 2)

The opportunities provided fall within the following categories:

- use of facilities by state and independent schools and groups for young people;
- hosting events with other schools;
- access to lessons and other educational events;
- formalised ways of sharing knowledge, skills and experience with other educational providers.

Financial position: year ending 31 August 2008

| | Unrestricted funds | Restricted funds | Endowed funds | Total |
|--|--------------------|------------------|---------------|------------|
| Income | £1,344,755 | Nil | Nil | £1,344,755 |
| Expenditure | £1,327,294 | Nil | Nil | £1,327,294 |
| Net incoming (outgoing) resources | £17,461 | Nil | Nil | £17,461 |
| Net assets | £826,274 | Nil | Nil | £826,274 |

Section C: Is the charity's aim capable of being charitable?

In this section, we report on the charity's aim and whether it fits within the list of descriptions of purposes within section 2 (2) of the Charities Act 2006 that are capable of being charitable purposes.

The charity's object* is as follows:

- "the advancement of education of boys and girls of all sections of the community and in connection therewith to conduct and carry on schools in which they may receive a sound general education."

The charity's aim is to provide a school or schools for the advancement of education and our assessment found that the charity's operation was fully within this aim.

We concluded that the charity's aim does fall within s2(2)(b) of the descriptions of purposes in the Charities Act 2006 - the advancement of education - and is capable of being charitable, subject to meeting the public benefit requirement.

* set out in memorandum and articles of association incorporated on 18th January 1979 as amended

Section D: Is the charity's aim for the public benefit?

To meet the public benefit requirement, the organisation must meet the two public benefit principles. These are:

Principle 1: There must be an identifiable benefit or benefits

Principle 2: Benefit must be to the public, or section of the public

We looked at the sub-principles within each of these.

- Sections D1 and D2 set out our findings for those relating to principle 1.
- Sections D3 - D6 set out our findings for those relating to principle 2.
- Section D7 sets out our conclusions on whether the organisation meets the public benefit requirement.

Section D1

We looked at the first two sub-principles together:

- **sub-principle 1a - it must be clear what the benefits are**
- **sub-principle 1b - the benefits must be related to the aims**

Relevant benefits

The charity's primary benefit is the provision of education to the pupils at the school. Beyond the curriculum offered by the school, benefits to the pupils also flow from the following activities which the charity described during the assessment:

- the school provides the pupils with a range of over twenty extra-curricular activities, some of which are run as after school clubs, including design, karate, cookery and chess clubs;
- school trips to theatres, museums, art galleries and places of historical interest;
- involvement in support for charities, including specialist charity days and performances by the choir at a local care home for the elderly.

In addition, educational benefits for pupils and other children arise from the following examples given by the school, which are described in more detail in section 2 of Annex A:

- the school hires out its facilities for football training for local children, to local cricket clubs' junior teams and to the county chess federation (which includes junior members) for monthly training sessions;
- a children's holiday club (run on a for-profit basis) uses the facilities on reduced terms;
- public speaking examinations for children are held on the school premises;
- a parent and toddler group meets weekly at the school, providing play opportunities for the children and education and support for the parents;
- the school hosts sports competitions with local primary schools;
- year 10 pupils from local schools come to the school for work experience as part of the curriculum;
- the school is a lead practitioner in modelling good practice for schools in the area in relation to the Early Years Foundation Stage.

These benefits all relate to the aim and are relevant to these sub-principles.

Benefits which are not relevant

There were some benefits which were identified by the school but which were not relevant to the aim - see section 3 of Annex A.

We concluded that the clear benefits that are related to the charity's aim are primarily those that arise for the pupils at the school and, in addition but secondary to that, for other children who are not pupils at the school. The benefits are sufficient to enable us to conclude that the charity does meet sub-principles 1a and 1b.

Section D2

Sub-principle 1c: Benefits must be balanced against any detriment or harm

We explain in *Charities and Public Benefit* our approach to assessing this sub-principle.

Based on this, we found no evidence or indication of detriment or harm in relation to this charity.

We concluded that there was nothing under sub-principle 1c that would affect the assessment of public benefit in this case.

Section D3

Sub-principle 2a: The beneficiaries must be appropriate to the aims

The beneficiaries are children. Although the aim does not specify an age range, in practice children at the school are aged between 2 - 11. The pupils attending the school and nursery are primarily the beneficiaries of the charity, but beneficiaries also include other children who are not pupils at the school but who have the opportunity to benefit from educational activities undertaken at, or by, the school.

We concluded that the beneficiaries are appropriate to the aim and that this sub-principle is met.

Section D4

Sub-principle 2b: Where benefit is to a section of the public, the opportunity to benefit must not be unreasonably restricted

In this section we consider geographical and other restrictions. In section D5 we consider restrictions arising as a result of the fees charged.

Geographical restrictions

There is no geographical restriction in the stated objects applied to the opportunity to benefit. In practice, pupils at the school are drawn from within a radius of approximately 20 miles.

Age restrictions

There are no age restrictions specified in the stated objects, but currently, in practice, the opportunity to benefit is limited to children aged between 2 - 11, which is the age range catered for at the school.

Academic restrictions

There is no requirement in the governing document for children to meet specific academic standards as a condition of entry. The school accepts children from within a wide range of academic ability.

Religious restrictions

The governing document does not contain any religious restrictions on who may be admitted.

These restrictions on who has the opportunity to benefit are rational and justifiable and **we concluded that** the opportunity to benefit is not unreasonably restricted by geographical or other factors outlined above and that the charity does meet sub-principle 2b in relation to restrictions other than fees.

Section D5

We considered the following related sub-principles together:

- **sub-principle 2b (the opportunity to benefit must not be unreasonably restricted by ability to pay any fees charged); and**
- **sub-principle 2c (people in poverty must not be excluded from the opportunity to benefit)**

Taken together, these sub-principles mean that the charity must be able to show that there is sufficient opportunity to benefit in a material way that is related to the charity's aim for those who cannot afford the fees, including those in poverty.

We describe in section C of *Public Benefit and Fee-charging* the principal factors derived from case law which we use to assess this.

We set out below how these factors apply to the circumstances of the school.

D5(i) *Does the level at which fees are set have the effect of preventing people who are unable to pay the fees from benefiting from the services or facilities?*

The charity primarily carries out its aim by providing a school. Its fees are detailed in section B. The school fees are £5,795 a year. The fees for the nursery are £29.30 a day and there are options for attending morning or afternoon sessions. The nursery is open for 36 weeks each year so the yearly cost of full time nursery education is approximately £5,274. The governors told us that fees are set so as to ensure that all operating costs are covered and that their policy is to keep fees as low as possible.

The level of fees charged fits within the definition of 'high fees' in our guidance on *Public Benefit and Fee-charging* because they are unaffordable to many people.

D5(ii) *In relation to those who cannot afford to access the services because of the charges made, to what extent are those charges moderated (in whole or in part) in order to:*

- *permit access to the services charged for;*
- *give other access to the benefits of the charity?*

The charity provides a mix of opportunities in relation to this sub-principle. We therefore looked at the totality of benefits provided by these, which include:

- non means-tested fee reductions to provide access to an education at the school which those paying fees receive; and
- other measures to provide access to the benefits provided by the school.

The charity provided details of opportunities which fall within each of these categories and we have set these out at Annex A. In the following paragraphs we explain how we looked at these categories.

- Although the fees are high, we recognise that the policy of keeping them as low as possible means that fewer people are excluded than would be the case with schools charging higher fees. This would have some impact in relation to principle 2b, but the lack of bursary provision means that there are no means-tested measures which demonstrate that people in poverty are not excluded.
- The Early Years Entitlement Scheme provides some fee reduction for children aged 3 - 4 in the nursery. It is not means-tested and does not therefore have the same impact as measures that are designed to mitigate fees for those who are unable to afford fees, including those in poverty.
- The charity offers a number of opportunities to benefit, although on their own they are not sufficient to demonstrate that material opportunities (that is, opportunities which are significant, important, relevant and tangible) to benefit are provided for those unable to afford the fees, including those in poverty.
- The co-ordination of the Early Years Foundation Scheme contributes to the development of best practice in early years education across schools, including those that work in areas of deprivation and is a good example of a measure that results in the school's benefits being shared more widely.

Sub-principles 2b and 2c - conclusion

The charity charges high fees which require some mitigation in order to show that the opportunity to benefit is not unreasonably restricted. We took account of the relatively small size of the school and the policy of keeping the fees down, as well as the steps it has taken to provide opportunities to benefit in a material way that are related to the charity's aim for those who cannot afford the fees. We also took into consideration the fact that the extent to which the charity is able to mitigate the fees may be influenced by factors such as location and financial situation. The totality of benefits provided for those unable to afford the fees, including people in poverty, is however not sufficient and:

- does not ensure that people in poverty are not excluded from the opportunity to benefit;
- is not sufficiently extensive and targeted at those unable to afford the fees.

We concluded that, taking into account what is reasonable and appropriate in the circumstances of this charity, it does not provide sufficient opportunity to benefit in a material way for those who cannot afford the fees, including people in poverty, and that the charity does not therefore fully meet sub-principles 2b (in relation to fees) and 2c.

Section D6

Principle 2d: Any private benefits must be incidental

(i) Discounts for children of staff - The charity provides a discount of fees for staff who choose to educate their children at the school. This is a part of the employment terms offered to staff on appointment and is therefore incidental.

(ii) Conflicts of interest - We considered the requirement in the charity's governing document that at least six of the ten governors (the charity trustees) are parents. We also noted that, currently, all governors are parents. This results in all the governors facing conflicts of interest when they make decisions in relation, for example, to the setting of fees and the consideration of the provision for free or wider public access.

The inclusion of parents on a governing body is usual and brings many positive qualities such as commitment and insight. It does, however, mean that those governors who are also parents will face a conflict between their interests as (fee-paying) parents of children and their duty as charity trustees to act in the interests of the charity. There is a general legal duty on trustees not to place themselves *in a position* where any personal interests they may have conflict with their duties as trustees, unless those conflicts are both authorised and managed. One way in which conflict is usually managed is through the declaration of such interests and the withdrawal of any conflicted governor although this causes practical difficulties for decision-making where a majority or all of the trustees find themselves conflicted. In this case, the constitutional requirements of the charity mean it is not possible to provide assurance about the management of conflicts of interests.

In our assessment, we found that the constitutional requirements of the charity mean it is not currently possible for the governors to demonstrate that conflicts of interest can be managed in the decisions they take as charity trustees.

We concluded that in relation to sub-principle 2d we will work with the governors to put in place measures to address the future management of conflicts of interest.

Section D7

Is the public benefit requirement met?

In this case, **we concluded that** the charity does not meet the public benefit requirement.

Our findings described at section D5 show that the totality of benefits provided for those unable to afford the fees, including people in poverty, is not sufficient and:

- does not ensure that people in poverty are not excluded from the opportunity to benefit;
- is not sufficiently extensive and targeted at those unable to afford the fees.

Our findings in relation to sub-principle 2d (any private benefits must be incidental) mean that the governors will need to review the requirements of the governing document to ensure that appropriate provisions are built in to ensure that any conflicts of interests are authorised and managed.

Section E: Overall conclusions and required or recommended actions

We concluded that the aim of Highfield Priory School Ltd is capable of being charitable, subject to the public benefit requirement being met.

It does not, however, meet all aspects of the public benefit requirement. Our conclusions at section D7 show that sub-principles 2b (in relation to fees) and 2c (people in poverty not to be excluded from the opportunity to benefit) are not met and that the governance provisions in relation to conflicts of interest must be revised in order to be able to conclude that sub-principle 2d can be met.

It will be necessary to address sub-principle 2d and we will work with the governors to develop an appropriate framework for the authorisation and management of conflicts of interest.

It will also be necessary to produce a plan to show how the organisation will ensure that there is sufficient opportunity to benefit in a material way for those who cannot afford the fees, including people in poverty.

The governors must confirm within three months their intention to address these matters and provide a plan for agreement with the Charity Commission in a further nine months.

HIGHFIELD PRIORY SCHOOL LTD

OPPORTUNITIES TO BENEFIT FOR THOSE WHO ARE UNABLE TO AFFORD THE FEES, INCLUDING PEOPLE IN POVERTY

This annex uses information provided by the charity to show which activities we assessed in relation to the element of sub-principle 2b relating to fee-charging and sub-principle 2c:

- **Principle 2b** Where benefit is to a section of the public, the opportunity to benefit must not be unreasonably restricted by ability to pay any fees charged
- **Principle 2c** People in poverty must not be excluded from the opportunity to benefit

We have categorised the information as follows:

- non means-tested opportunities which may provide access to an education at the school to children whose families are unable to afford the fees, including those in poverty (see section 1 below);
- measures which provide opportunities to benefit in ways related to the aim for other children whose families may not be able to afford the fees including those in poverty (see section 2 below).

At section 3 we have listed examples of activities and opportunities identified by the charity which are not related to the charity's aim.

The body of the public benefit assessment report sets out our analysis of how these opportunities relate to the public benefit requirement.

Section 1

Non means-tested opportunities which may provide access to an education at the school to children whose families are unable to afford the fees, including those in poverty (see section 2 below)

- **Early Years Entitlement – not means-tested but available to all parents to help with the cost of nursery education**

Parents wishing to send their child to the nursery are able to take advantage of the Government's Early Years Entitlement (EYE) grant.

Entitlement to this scheme is not means-tested and is therefore available to those who can and cannot afford the fees. However, it is capable of providing an opportunity to benefit to people who cannot afford the full fees.

- **Sibling discounts**

Fees are discounted by 5% for the first sibling of an existing pupil and 10% for the second sibling.

Section 2

Measures which provide opportunities to benefit in ways related to the aim for other children whose families may not be able to afford the fees including those in poverty

- **Use of facilities by state and independent schools and groups for young people**
 - A parent and toddler group meets weekly at the school providing play opportunities for the children and education and support for parents.
 - The school makes its premises available for public speaking examinations for children.
 - The charity rents at below market rate its premises to a children's holiday club which is run on a for-profit basis.
 - The county chess federation has young members and it uses the school's premises for a monthly chess training session.
 - The charity hires out its facilities for football training for local children
 - The charity makes its facilities available to junior teams from local cricket clubs.

- **Hosting events with other schools**

- The school hosts:
 - football competitions with local primary schools
 - regular sports fixtures with independent and state schools

- **Access to lessons and other educational events**

- The school supports provides work experience placements for year 10 pupils from local state schools as part of their studies.

- **Provision of formalised ways of sharing knowledge, skills and experience with other educational providers**

- The school's Early Years Foundation Stage ('EYFS') Co-ordinator is used as a lead practitioner by the County Council and the school's EYFS provision is used to model good practice for schools. Schools, including one from a socially deprived area locally, observe the school's own provision.
- Two teachers act as markers of Key Stage 2 exams.
- Placements are provided for prospective and existing teacher training students from local teacher training establishments, as well as for child care trainees.

Section 3

Examples of activities and opportunities identified by the school which are not related to the aim

- Preservation and development of buildings in ways that are environmentally friendly and sympathetic to the existing environment.
- The school provides direct employment to local people and indirect employment by utilising local suppliers and contractors.

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