



THE DONALDSON TRUST

Response to the U.K. Government's Technical Consultation on VAT on Private School Fees & Removing the Charitable Rates Relief for Private Schools.

September 2024

About Neurodiversity

Neurodiversity describes the diversity of humans' brains and minds. A person who is, for example, autistic is neurodivergent; they are in a neurological minority, not the neuro-'typical' majority.

Other neurodivergences include: ADHD, dyscalculia, dyspraxia, dyslexia, dysgraphia, misophonia, Tourette's Syndrome, or differences in cognitive function.

About Us

Our work is built on an understanding that neurodiversity is not a medical construct; rather, it lies at the intersection of culture, mind, identity formation, and socio-political action.

The Donaldson Trust envisages a society in which neurodivergent people are understood, accepted, treated fairly, and valued.

Though there is much work to be done, we believe there are genuine opportunities to change society for the better. We aim to be at the forefront of driving that change – and making a difference *with and for* neurodivergent people and their families.

As the *National Body for Neurodiversity*, we will seek to lead by example. We exist to strengthen the public's understanding of neurodiversity, develop excellence in practice, and help neurodivergent people find their voice.

Alongside neurodivergent people and our partners across the third sector and academia, we write, campaign, and persuade in order to shape the policies being made on the issues most important to neurodivergent people and families.

We improve outcomes and representation via *Connect*. Our training and consultancy is accessed by organisations looking to build a culture of neuro-inclusion. We continue to develop our free, online information, support, and guidance resources to neurodivergent people, families, and professionals alongside it.

We continue to support children, young people, and adults through a variety of services based at our Linlithgow campus, where we enable every neurodivergent person to realise their goals & aspirations:

- **Sensational Learning Centre (SLC)**

We offer individualised, skills-based learning to children and young people with 'Additional Support Needs' (ASN) including sensory and communication differences.

A 'Grant-Aided Special School' (GASS), SLC is independent of local government.

- **Vibe**

Our wellbeing service for neurodivergent people ages 12-18, Vibe offers warm, low arousal spaces for neurodivergent young people to thrive and achieve their personal goals. The service focuses on reducing anxiety, developing life skills, literacy, numeracy, and growing self-esteem / resilience.

Vibe's activities mirror the interests and skills of the young people enrolled with a wellbeing framework and personal programme of skills development.

- **Gate**

Donaldsons' skills development and training offer for neurodivergent adults, Gate has been co-designed with those who benefit from it and offers a friendly environment where neurodivergent adults can relax and be themselves. Similar to other services, Gate takes an individualised approach to ensure trainees get the most from their time with us and achieve agreed goals and ambitions.

Trainees can learn skills through activities, or enrol in a vocational and accredited course, delivered by specialist staff / tutors. This includes art, cooking, and cybersecurity.

- **Treehouse**

Treehouse is a specialist wellbeing service offering bespoke, low-arousal environments to improve wellbeing and independence. Support is centred around individual studios, with the 'home-style' settings offering individualised spaces tailored to every person's needs. That allows people we support to participate in activities they co-design alongside their Wellbeing Practitioners.

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Established in the 1850's, The Donaldson Trust (formerly Donaldson's School) has provided supported education and care throughout its history and has now established itself in the neurodivergence space.

The full range of services offered by the Trust is found here:

<https://www.donaldsons.org.uk/>

**Together, we'll
find your voice.**

Overview

The Donaldson Trust is pleased to respond to the U.K. Government's 'Technical Note' in relation to the proposed changes to the 'VAT-exempt' status of school fees collected by an independent school.

Overall, the VAT policy fails to adequately consider variations in regulation and the make-up of provision across the U.K., will have detrimental impacts on 'self-funding' families who seek specialist provision for young people with significant levels of need, and may compromise the financial position of charities already meeting gaps in the same state sector this policy is meant to benefit.

We are concerned that policy intended to generate Exchequer revenues from specific institutions and groups across the U.K. better placed to accommodate any additional cost will have very significant and unintended consequence for those who simply cannot.

Given that Business Rates are an issue devolved to The Scottish Parliament, and *Non-Domestic Rates (Scotland) Act 2020*¹ confirms the rights of Special Schools to 'Charity Relief' already in place from *Local Government (Financial Provisions etc.) (Scotland) Act 1962*, we have not addressed this element of the proposed changes in our responses.

Grant-Aided Special Schools (GASS)

Our *Sensational Learning Centre, SLC*, is one of only seven Grant-Aided Special Schools in Scotland; moreover, GASS do not exist in the other three U.K. nations and do not have a direct equivalent. These GASS derive their income from two sources: a year-by-year revenue & capital grant from the Scottish Government and, as applicable, per pupil funding from a pupil's placing local authority. The GASS may also derive a small amount of income from 'self-funders'.

Owing to this arrangement, the legal and regulatory nature of our educational offer spans the independent and state sectors in a way not seen with any other Scottish schools or in other parts of the U.K.. GASS are run independently, take pupils from outside of the local area, often operate social care and education services from the one site, and charge for services they provide; however, they are subject to requirements not placed on private organisations. These include reporting duties to *Equality Act 2010* and Scotland-specific Duties, *Freedom of*

¹ *Non-Domestic Rates (Scotland) Act 2020*

Information (Scotland) Act 2002, and the necessary qualifications that must be obtained by their teaching staff reflecting those of the state sector.

If this policy is in fact pursued, we believe that, owing to the unique legal and regulatory position of schools such as ours, Scottish GASS should be referenced in the Bill (and in accompanying guidance) to provide a greater clarity around their rights and obligations. We would welcome an opportunity to discuss these matters, and others addressed in this response, direct with the U.K. Government as part of wider talks proposed by a number of representative bodies, including the *Scottish Council of Independent Schools (SCIS)* ².

Does this approach achieve the intended policy aims across all four UK nations?

While we welcome the U.K. Government's commitment to "*ensuring that pupils with the most acute needs are not impacted*" ³, we have concerns that nation-specific education policy (especially that concerning provisions for children or young people with a higher level of need) has not been sufficiently considered in the Technical Note. For example, the Education, Health and Care (EHC) Plan does not have direct equivalents in Scotland, and the plan that caters to similar pupil cohorts (the Co-ordinated Support Plan [CSP]) is barely utilised with 0.51% of pupils with 'Additional Support Needs' having one ⁴. There is a gap between the ambition of the Technical Note and the reality of the contents.

Though the recognition of a local authority's own assessment of a pupil's needs (in place of CSP) is welcome, we believe the U.K. Government could work with the Scottish Government to build greater understanding of the needs of pupils in Scotland and how many pupils with higher levels of support need could have their education put at risk by the unintended consequences of this policy. One solution may be to amend this Technical Note to make reference to pupils with an Individualised Educational Programme (IEP) instead. 33,322 Scottish pupils ⁵ have an IEP, meaning that it would ensure a more effective coverage of those with high levels of need not covered in CSP. We know that a significant number of GASS-attending pupils have an IEP.

² *Why Scotland's private schools are 'disappointed' by timing of Labour VAT charges to impact 6,000 pupils*, [The Scotsman](#).

³ Technical Note, P.12.

⁴ 2024, Scottish Government, [Pupil Census 2023: Supplementary Statistics](#) (Table 1.6).

⁵ *ibid*.

Whilst reassurances around the Section 33 Refund ⁶ for local authorities placing in a Special School is welcome, we remain concerned that self-funding families in identical circumstances will be unprotected – and forced to make very hard decisions to the detriment of their children. It is almost always the case that self-funded placements at GASS are a 'last resort'; they are a necessity, not a luxury or convenience. Many self-funders attending GASS would simply not attend a school, or receive an education of any sort, if they were not able to access our specialist provision or those of similar independent schools.

These self-funders do so for two reasons: they either do not meet the criteria for local authority funding or are part-way through the protracted Tribunal process often necessary for them to secure funding from the local authority. In the case of the latter, an appeals process will often drag on, despite school and parents agreeing that the child's needs will be best met by a specialist provision. During this, the child will miss out on vital learning time at key development stages.

We know that more than 50% of pupils enrolled with (local authority and Grant-Aided) Special Schools are from Scotland's most deprived one-third of families, highlighting that specialist provision delivered by independent schools such as ours is being pursued (disproportionately so) by those more likely to experience financial hardship ⁷.

We know, too, that many families choose a specialist provision such as our own as they are being failed by both inadequacies in mainstream provision and the structures or processes meant to deliver meaningful changes for young people when they need it. We know that pupils with a higher level of need, particularly neurodivergent children or young people, rarely get all of the support to which they are entitled in mainstream schools in Scotland. It results in neurodivergent children and young people experiencing among the poorest outcomes of *any* group – a fact accepted in many government publications ^{8 9}.

Contrary to the U.K. Government's stated commitment (in the Technical Note) that this policy should not impact those with the most acute needs, this policy does exactly that. By making VAT-liable school fees paid by often hard-pressed families whose child clearly benefits from independent, specialist provision, this

⁶ Technical Note, P.13.

⁷ 2024, Scottish Government, *Pupil Census 2023: Supplementary Statistics* (Table 4.11).

⁸ 2023, Scottish Government, *Research into Provision for Pupils with Complex Additional Support Needs in Scotland*

⁹ 2023, Scottish Government, *Learning Disabilities, Autism, and Neurodivergence Bill: Consultation*.

policy risks their education and overall wellbeing. It is also a false economy; we know that the parents of children not in education will often choose to, or have to, leave work ¹⁰ (and the U.K. tax base) in order to support their child.

Any funds that might be generated as a result of the policy could be spent on specified education initiatives in England; however, as education is a devolved competence, Barnett Consequentials transferred would not be ringfenced for the same purposes without Scottish Government agreement. For instance, any revenue generated from a self-funding pupil attending a Special School would not necessarily find a way back to them from greater investment in state sector provision long-term.

We believe the implementation date of this policy is too soon and, before any action is taken, the U.K. Government should meet with independent schools in Scotland to hear their concerns. This should be followed by a Scotland-specific written consultation that is cognisant of the unique challenges this policy would bring for the independent sector in Scotland. The challenges can be attributed to the composition of the independent sector in Scotland, when compared to England; for instance, the disproportionately high number of schools operating to meet the needs of people with Additional Support Needs (ASN) or registered as charities – 93% in Scotland v. 50% in England ¹¹.

We welcome the exclusion of meals, transportation, books, and stationery from this proposal ¹². The U.K. Government should publish a finite list of all exemptions in order to provide clarity for providers. Similarly, there should be greater clarity on the VAT-liability, or not, of school-connected activity delivered within school time but off-site – i.e. outdoor education or residential placements. Provision of this nature is important within alternative approaches to learning being offered to pupils with a higher level of need.

¹⁰ 2018, Children in Scotland | National Autistic Society | Scottish Autism, *Not Included, Not Engaged, Not Involved*, P.37-39.

¹¹ *Scottish Council of Independent Schools*.

¹² Technical Note, P.11.



THE
DONALDSON
TRUST

Contact:

Address: The Donaldson Trust, Preston Road, Linlithgow, West Lothian,
EH49 6HZ

Phone: 01506 841900

Email: info@donaldsons.org.uk