

Why VAT on schools fees will not deliver the intended policy outcome in Scotland.

**The Scottish Council of Independent Schools
response to the Treasury consultation.**

scis

**SCOTTISH COUNCIL *of*
INDEPENDENT SCHOOLS**

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The Scottish Council of Independent Schools response to Applying VAT to Private School Fees and Removing the Business Rates Charitable Rates Relief for Private Schools: Technical Note

This response seeks to highlight the many issues which will arise from the imposition of VAT on school fees, including the harm to children and the wider Scottish education system.

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

The Scottish Council of Independent Schools (SCIS) represents 69 independent schools in Scotland, twenty of which are specialist schools for children with complex needs. This consultation response seeks to inform the VAT on fees policy from a Scottish perspective and explain why the policy will not only not have the intended outcomes in Scotland, but will adversely affect the state sector.

The UK Government has published draft legislation outlining plans to impose VAT on independent school fees from January 2025. The funding generated will be spent on a range of specified education initiatives in England including additional teacher numbers.

Because Education is a devolved competence, the UK Government will pass the Barnett consequential from the income the policy generates to the Scottish Government.

However, the money cannot be ringfenced for the purposes of education without the agreement of the Scottish Government, and furthermore it cannot be designated for the same educational purposes as were outlined in the UK Labour General Election manifesto unless the Scottish Government decides on those same priorities.

This means residents in Scotland cannot be assured of the specific policy aims set out by the UK Government therefore the policy cannot have the intended outcome in Scotland.

Prior to the publication of the draft legislation and the announcement of the planned timescale of January 2025 for the policy implementation, no official engagement took

place between the UK Government Ministers or officials responsible for the policy and the independent school sector in Scotland. We are therefore concerned that the policy intent has been designed without taking into account the distinctive nature of the sector in Scotland. It is vital this is now given serious consideration to avoid negative consequences for the whole Scottish education system and the children being educated within it.

An independent report by BiGGAR Economics was published in February 2024: [Economic-Impact-of-SCIS-Member-Schools-in-Scotland-2022-23-8Feb24.pdf](#)

It stated: “A 13 per cent drop in SCIS pupil numbers (a decrease of 3,190 pupils) would more than wipe out the gains in revenue from VAT, by reducing the projected VAT collected by £7 million to £44 million), reducing the other taxes paid and collected by the sector by £20 million and due to the cost of education borne by the public sector (£24 million)”

It adds: “A behaviour change that led to a reduction of more than 13 per cent in the pupil numbers as a result of VAT on fees, would result in a net cost to the public finances”.

This finding highlights the significant risk that the policy will not contribute to the improvement of education in Scotland and on the contrary is likely to place an even greater strain on the state system.

An independent report by Baines Cutler estimated around 20 per cent of families will be forced to leave the sector in the event of VAT on fees. [isc-vat-full-report-1018-for-circulation.pdf \(bainescutler.com\)](#)

While a report from the IFS estimated a lower percentage of between 3- 7 per cent will leave the independent sector, due to the combination of lower parental income levels and school deficits hampering the ability to absorb VAT, pupil withdrawals are likely to be higher in Scotland than in other parts of the country.

The operating landscape for independent schools in Scotland is very different. For example:

- Scotland has its own charity regulator the Office of the Scottish Charity Regulator (OSCR). Scottish law around the role and function of charities, and the public benefit that they must provide is more stringent than the legislation affecting independent schools in England.
- 98 per cent of fee-paying independent schools in Scotland are charities compared to 50 per cent in England.

- The Scottish Government removed business rate relief from Scottish independent schools in April 2022. Some schools used what reserves they had to absorb some of this cost to avoid passing it on to parents in full. They therefore have little to no ability to absorb VAT on top of this.
- There are separate Teacher pay and pension arrangements for teachers in Scotland. The differences have resulted in Scottish schools having to meet significantly increased operating costs over the last couple of years. While schools have cut costs significantly, their increased fixed operating costs have resulted in fee increases of around 33 per cent over the last five years and the imposition of VAT on top of these increases will put the sector beyond the reach of many more families.
- Parental levels of disposable income in Scotland are lower than in England putting Scottish families at a greater risk of being forced to withdraw their child from their school.
- Legislation governing the school starting age is different in Scotland and the UK Government legislation on VAT on fees which defines a nursery class as being wholly comprised of children of below “school age” is at odds with the Scottish system of giving parents the right to choose to defer their child from starting school without losing funding.
- Local Authorities do not require to assess children in independent schools in Scotland for special education needs putting Scottish pupils with additional needs at a disadvantage compared to children in England. (see para 10 [Chapter 5 Co-ordinated support plan - Supporting children's learning: code of practice \(revised 2010\) - gov.scot \(www.gov.scot\)](#))

Different school financial environment in Scotland.

The finances of Scottish schools have not been sufficiently considered within the policy development process. A sample survey of bursars in Scottish schools has revealed an increase in overall costs between 2019 and 2024 of 33 per cent.

Given the non-discretionary increases to expenditure in Scottish Independent Schools over the last five years, many have already made significant spending cuts. Many budget lines are either fixed or proportionate to the school roll.

The only financial lever open to most schools in Scotland as their income from fees declines due to pupil withdrawals, is to reduce staffing levels of both teaching and non-teaching staff. Staffing costs account for around 70% to 75% of income.

Teacher pay in Scotland has increased by 14.5 per cent over the last two years.

The cost of employing a teacher in Scotland was £48,500 prior to the 2024/25 pay award. The cost of employing a teacher in England was £43,000 prior to this year's pay award.

Given the timing of the policy most schools are already outside the contractual notice period to reduce teaching staff and will have to carry the additional employment costs for the year further impacting on their finances.

The removal of business rates combined with significant increases in the cost of employing teachers in Scotland has already negatively impacted on the financial situation in Scottish independent schools, placing them at a disadvantage to schools in England in terms of absorbing any additional costs.

Parent affordability levels in Scotland would not sustain the full costs of business rates and teacher pay costs being passed on through school fees therefore many schools have already made significant cuts elsewhere and used any reserves they had to deal with the financial challenges of the past two years.

The majority of schools who are members of SCIS have reported financial deficits this year.

It is therefore inaccurate to state that schools in Scotland can simply absorb the cost of VAT on fees to minimise the impact of fee rises for parents.

January implementation date and impact on the Scottish education system

During the General Election, the now Chancellor Rachel Reeves told the Times CEO summit that Labour would delay schools VAT until September 2025 at the earliest.

The date of January 2025 implementation contradicts the widely trailed messages from senior Labour sources during the election that schools and parents would be given time to prepare for the change.

School budgets had already been set for the 2024/25 academic years and parents notified of fees before the unexpected change in the planned date of implementation.

Schools are currently in the process of being notified by parents of pupil withdrawals from January 2025 because of the VAT policy but schools are not yet in a position to

know how many pupils they will have in January 2025 due to parents still trying to source places in the state sector therefore schools cannot budget accordingly.

Some city centre day schools are reporting a drop in their school roll of 4.5 per cent and the numbers signing up for forthcoming school open days are running at 50 per cent below usual numbers in some parts of the country.

Given the majority of independent schools in Scotland do not have significant reserves, this earlier than expected date will force them to further reduce operating costs within a short period of time. The main operating costs for schools are the cost of staff therefore the January timescale is putting more jobs at risk and risking the closure of more schools than would be the case if the policy came into effect in September 2025.

A recent independent economic impact report on the sector showed there are almost 12,000 people in Scotland who depend on the sector for their employment. Fifty-one per cent of school staff are teaching staff and 49 per cent are support staff. Our staff contribute tax of £157 million annually, therefore any decrease in staffing levels will result in a reduction in the taxes generated.

Support staff, particularly those in rural areas, have spoken of the importance of politicians and policy makers understanding the value of these jobs and the risk to their livelihoods. One catering worker said: “It makes me really angry when I hear people talk about us as if we are all posh. We are just ordinary people, working hard and the sector has given me career opportunities and a salary level I would never have had otherwise in an area like this.”

The lack of time to prepare for the change, leaves schools without time to consult with staff and trade unions on redundancies and or withdrawing from the Scottish Teacher Pension Scheme (STPS)

Teachers in independent schools have a full term’s notice period, therefore schools cannot reduce teaching numbers within the announced timescale to absorb VAT as the UK Government has said they should. The assumption that they can absorb VAT as set out in the technical note further underlines the policy is being developed without considering the different operating environment in Scotland, putting Scottish independent schools at a disadvantage.

Independent schools withdrawing from the Scottish Teachers Pension Scheme will negatively impact on the pension provision for teachers in the state system, as a result of fewer members paying in to this unfunded scheme.

The earlier than expected implementation date will also negatively impact on local authority education budgets which have also been set for the coming academic year, and which will now be further strained by the pupils leaving the independent sector.

Following the announcement of the January implementation date for VAT, a number of independent schools opened discussions with OSCR about the possibility of early closure.

Kilgraston boarding school in Perthshire and Cedars school in Greenock announced their closures on August 12 2024.

VAT on fees is one of several factors which led to the decision. These schools were already struggling with the higher operating costs already outlined. However, the VAT announcement resulted in some families giving immediate notice for their child's withdrawal because they could not meet the looming 20 per cent increase in fees.

The subsequent sudden reduction in the school roll rendered them unviable. The VAT policy, and its likely impact on the sector, was part of the reason for a potential investor pulling out of buying Kilgraston school.

UK Government Ministers have blamed the schools for failing to balance their books and for increasing their fees in recent years, but they appear not to have taken into account the significant rises in operating costs which have resulted in necessary fees increases.

Those recent increases combined with the 20 per cent VAT rise was a tipping point for many families and ultimately for the schools.

SCIS is calling on the UK Government Minister and officials responsible for the policy to meet directly with representatives of the Scottish sector to better understand its operating environment.

The closure of independent schools in Scotland has an immediate impact on the families involved and on the neighbouring state schools. SCIS is in close contact with OSCR, the Scottish Convention of Local Authorities (CoSLA) and the Scottish Government to monitor the impact of the planned policy.

The decision to implement VAT from January 2025 will lead to the maximum level of disruption to pupils' education as a result of school closures due to the sudden change in timing and children being forced to leave their school during the middle of an academic year due to family finances.

The January implementation date will also lead to a higher number of jobs being lost and therefore a decrease in taxes paid than if the UK Government acknowledged the fact the charge was being applied to children's education and the harm which could be caused to them, and applied VAT from the more logical and significantly less disruptive date of September 2025 which is the start of the next academic year.

Despite the policy implementation date of January 2025, schools have not been provided with any HMRC guidance or support and they have been unable to obtain answers when they contact HMRC.

It is clear that HMRC is not in a position to provide the support which schools need now to introduce new systems and recruit and train new staff.

Parental affordability levels and cost of state school places

Although fees in Scotland and England are broadly similar, there is a significant difference between the two nations in terms of disposable incomes. When comparing Gross Disposable Household Income the latest figures from 2021 are £22,213 per head in England but just £19,630 in Scotland.

There are additional income tax bands in Scotland and a higher rate of income tax. Consequently, there is a risk that families in Scotland will be less financially resilient towards any fee increases caused by the addition of VAT on school fees therefore more likely to be forced to withdraw their children and seek places in the state sector increasing the burden on the state sector.

According to the IFS report "How does school spending per pupil differ across the UK?" the cost of educating a child in the state sector in Scotland is £8,500 per pupil compared to £7,200 in England, therefore there will be a disproportionate impact on local authorities of pupil movement from the independent sector to the state sector.

Impact on pupils

The Scottish Council of Independent Schools represents 69 independent schools in Scotland, two fewer than there were before the January implementation date was

announced. There were 28,876 pupils attending our schools as of September 2023. This equated to 4.1 per cent of the school population.

The recent school closures have already resulted in almost 300 children being forced to move school suddenly, and after the start of term in the Scottish state system. Many SCIS schools are reporting receiving the one term's required notice from parents for withdrawing their child in January 2025.

Edinburgh has more independent school pupils per head of population than any other part of Scotland and a significant number of pupils have had to be withdrawn from their schools with immediate effect. With the exception of the Highlands and Islands all the local authority areas in Scotland have independent schools in their area. SCIS has shared pupil postcode data with local authorities to help with their planning for additional pupils and smooth the transition for pupils affected by a sudden change in their education provision.

While there is overall capacity in the state system in Scotland, it does not exist in many parts of the country in some year groups with many secondary schools operating at over 100 per cent capacity particularly in S4/S5 which are the years for external exams in Scotland. This has resulted in pupils who require to withdraw from their independent school and move to a state school being told as many as the nearest seven state schools are full for their year group.

A January implementation for VAT will result in many more children having their education disrupted part way through the school year. In many parts of the country most notably Edinburgh, Glasgow, East Dunbartonshire, East Renfrewshire and Aberdeen families are being told there are no places available at their catchment area school for their child's year group. This is particularly the case for those in exam years.

Unlike in England, Scottish pupils sit external examinations in three consecutive years in the senior phase this puts them at greater risk of having their education disrupted as there are fewer years in which they can transition to the state sector without having their external qualification study disrupted.

Pupils in S3 -S6 have already embarked on courses for external examinations, and some are being forced to withdraw midway through their two-year courses. While local authorities have processes in place to help pupils switch schools, there is not the continuity of subjects available for SQA exams.

Some SCIS schools follow the English system of qualifications or offer the International Baccalaureate. In the event they are required to move there will be significant disruption to the continuity of their education, particularly for those in exam years who have been studying for qualifications which are no longer available to them.

We are calling on the UK Government to exempt from VAT any independent school pupil forced to leave the sector for financial reasons who cannot be placed in their nearest two state schools and any pupil in the senior exam phase who cannot continue with their chosen subject or curriculum in the state sector.

The pupils impacted by the VAT policy disrupting their education, are pupils who have already suffered educational disruption due to Covid. There has been a rise in the number of pupils in the independent sector struggling with mental health and wellbeing, just as there has been in state schools.

Being removed from a school and friendship group in an unplanned way is likely to have an adverse effect on wellbeing.

Not being able to gain a place in a local state school will add additional journey times for pupils to travel to a school many miles from their local community. The local authorities will also have to meet the costs of the travel for these pupils from their already set education budget. Some families have been advised that the local authority will fund travel costs of £8,000 per year to enable a child to access an available state school place. The travel costs for disrupted pupils is another additional cost for taxpayers.

There are children who have been placed in the independent sector due to having experienced an Adverse Childhood Experience (ACE) and disruption to their education would be extremely harmful.

The independent sector has also seen a rise in the number of children with additional support needs. These children will be particularly impacted by a sudden move half way through a school year and the transfer of more pupils with ASN into the state system will negatively impact on children in state schools and their teachers who will have to deal with an increase in their ASN levels.

We are calling on the UK Government to consider the mental health aspects of the policy more fully and also to exempt any child who has suffered an ACE or who has ASN to be exempt from having VAT added to their fees.

Faith schools

The two schools which have closed in Scotland following the VAT announcement were faith based schools.

There is a legal requirement for local authorities to provide denominational school places. However, in some parts of the country, Catholic state schools are already oversubscribed, and as a result policies have been introduced to restrict places to children who have a baptism certificate. There are many children within Catholic schools in the independent system who are of strong faith, other than the Catholic faith. They have been enrolled in a Catholic school because their families want them to benefit from a faith school education and ethos.

If these families are forced to leave the independent sector, there is a risk they will be denied a faith-based education for their child due to the lack of denominational school places.

Bursary recipients

SCIS schools provide financial assistance to pupils of £56 million each year. These benefited 6,430 pupils last year, equivalent to 22 per cent of the pupils educated in SCIS schools and 11 per cent of total income. This suggests the average assistance provided per pupil is equal to £8,650.

These bursaries are rigorously means tested to ensure that they are awarded to those pupils whose families who could not otherwise access an independent education. The majority of bursaries are partial and require families to pay what they can towards their child's education.

Given these families have already been means tested, the school has required to be satisfied they are unable to pay any more. Requiring these families to pay an additional 20 per cent in the middle of a school year, will leave them with the choice of removing their child midway through an academic year or going without basic essentials in order for their child to complete the 2024/25 academic year.

The policy will disproportionately impact on the families of bursary pupils and the risk to their education being disrupted will be the greatest. Due to the timing of the policy and schools budgets already set for the coming academic year, schools cannot adjust budgets to provide more assistance, without cutting staffing costs even more.

We are calling on the UK Government not to impose VAT on the fees of bursary recipients for the lifetime of this parliament.

School Deferral and early learning provision in Scotland

In Scotland, the school year starts in August with any single school year group consisting of children born between the beginning of March in one year and the end of February the following year. Under the Education (Scotland) Act 1980 all children who are still 4 when they are due to start their first year of school (P1) can be deferred and start school the following year. The option to defer is a matter of parental choice. This difference in early years education between Scotland and England means that there will routinely be children of formal school starting age within most nursery classes in Scotland.

Steiner schools recommend children entering their class one should turn 7 within the first year of their formal primary education, therefore they have 6 years olds within the nursery classes.

It would be against the intention of the Scottish Government's legislation governing early learning funding and increased parental choice to impose VAT on any class which has children who are of school starting age within it.

We are calling on the UK Government to exempt nursery classes, including in Scotland those which include children who have exercised the parental choice to defer their primary school place and schools for whom 7 is the recommended starting age.

Specialist schools

More than 20 of our member schools are specialist schools supporting children and young people with complex needs. The places for these children are mainly funded by local authorities.

While we are disappointed that hundreds of vulnerable children in Scotland will have VAT added to their fees, we welcome the clarification that local authorities will be able to reclaim the VAT charge. However, some places in the specialist sector are funded by other bodies including the Scottish Government, which is not a section 33 body.

The cost of the VAT on these places will therefore be an added cost for the taxpayer in Scotland.

In addition to children whose places are funded by the local authority, there are some children in specialist schools who are funded by families. While they do not meet the criteria for local authority funding, they have specialist needs which the school and their family agree are best met in a specialist setting. The fees for these places are typically around £4,000 to £5,000 per annum.

Although this is considerably lower than mainstream independent schools, the impact of a sudden 20 per cent increase will have a disproportionate impact on these families who may require to withdraw their child and have no alternative education provision with similar level of specialist support.

The technical note states the UK Government is committed to ensuring pupils with acute special education needs are not impacted by the VAT change.

Specialist schools will require to implement new systems and processes to administer the VAT charge. Although it will not have a directly material impact on their funding stream, it will add a level of bureaucracy and potentially the need for additional staff or outsourcing costs to comply with the VAT arrangements.

These schools tend to be small establishments with staffing costs dedicated to intensive work with the children in their care. The VAT policy is an unwelcome distraction and potential cost which they cannot afford.

In England, children with EHCPs will be exempt and in Scotland pupils with co-ordinated support plans will be unaffected. There are more than 7,000 children in England in the independent sector and according to the latest figures from the Registrar for Independent Schools there are fewer than 40 children in Scotland with CSP.

In Scotland, local authorities are not required to assess or provide them for pupils at independent schools. These plans are therefore not equivalent, placing pupils in Scotland with complex needs at a disadvantage.

If the guidance is to be changed and local authorities require to assess children in Scotland within the independent sector, this will place a further staffing and cost burden on local authorities. A new system of assessing children with special educational needs being educated within the independent sector will require to be established to avoid Scottish pupils being discriminated against.

Extra-curricular activities

While the draft legislation acknowledges the importance of any before/after school childcare or child-based holiday clubs that just consist of childcare and do not fall within the definition of education to remain exempt from VAT on the basis that welfare services are exempt from VAT.

It is unclear what constitutes 'non-educational' childcare compared to 'educational' childcare.

Within after school childcare it is standard for children to have opportunities to work with craft materials with the support of the staff, play organised sports games under the supervision of after-school care staff and they may learn about key happenings in the World such as the Olympics and annual festivals as part of the themes which childcare teams put in place to ensure that the children have a meaningful and fulfilling experience.

The Care Inspectorate in Scotland expect after-school care services delivered in Scottish schools to provide such activities to support children's well-being.

Learning through play is well-recognised as part of a child's experience growing up in Scotland. The draft legislation risks a situation under which children are prevented from taking part in these standard play activities to avoid them being constituted as being 'educational' and therefore VAT chargeable.

Many working parents require before and after childcare for their children and as part of that offering some schools may provide music, drama, arts and crafts or sporting activities.

Imposing VAT on schools fees plus imposing VAT on after school activities of this nature will be a double whammy for parents and further risk them having to remove their child from their current school.

For welfare service to be properly recognised for the potential to keep pupils active, engaged and help them flourish **the draft legislation should be amended to exempt arts and crafts, sporting, musical and drama activities which take place in after school care settings.**

One Head Teacher highlighted: *"How can it be right that a child can leave the school at the end of the day to go to their local community centre to attend say, a gymnastics club provided by a professional paid instructor, yet because they choose to stay in their school to attend a similar club provided by an unpaid volunteer from*

our staff who gives of their own time to provide the children with this opportunity, their parents have to pay VAT on an activity which would be exempt from VAT provided in an external setting?”

The unintended consequences of this aspect of the policy will be that children will withdraw from clubs and extra-curricular activities and will overwhelm after-school care facilities which will be exempt from VAT.

Instrumental tutors.

In many areas in Scotland there is limited opportunity for children to undertake music tuition. Very few of the self-employed instructors who carry out this tuition are VAT registered therefore do not charge VAT for the lessons they provide currently.

For schools to have to apply VAT for instrumental tuition, making it 20% more expensive, will result in decreasing numbers of children taking music tuition, leading to far less employment requirements for tutors, many of whom are self-employed and are already on incomes well-below those of a class teacher.

Whilst there will be a view that the tutors will simply have to see children out of school hours, there is a high risk that there will not be sufficient time at the end of each day for them to see enough pupils to make their occupation as a music tutor viable.

It is likely that to afford the 20% uplift in school fees, that parents will require to cut-back on any ‘extras’ their children undertake and that music tuition will be once such casualty, **we are therefore calling for music tuition provided in schools to be exempt.**

Specialist music school

There are schools in Scotland which receive funding from the Scottish Government including a highly acclaimed specialist music school St Mary’s Music School in Edinburgh.

This school is funded through the Scottish Government’s Aided Places Scheme. The Scheme (in parallel with the Music and Dance Scheme in England) was set up to allow musically gifted children from all backgrounds access specialist music education.

Parents make an affordable contribution to school fees with the Scottish Government making up the remainder. The Scottish Government, not the school, sets the

fee. The school has not been made aware how VAT will be charged to the two components of the fee.

Unlike most independent schools, it is not in the school's gift to increase its fee to cover increased costs due to VAT being charged - which means the policy would have an even more severe effect to schools of this type relative to other independent schools.

We urge the UK Government to exempt children in specialist school settings whose fees are paid by their family or through Scottish Government grants from the VAT charge.

Public Benefit

The different test in Scotland around public benefit has not been considered as part of the impact analysis.

98 per cent of the fee-paying schools in Scotland are charities, compared to 50 per cent in England.

There is a more stringent charity test in Scotland than in England. Scottish independent schools, as a group, went through a charity test. This resulted in schools in Scotland further widening access through bursary provision and partnerships with state schools and the local community.

As part of the public benefit test set out by OSCR, Scottish independent schools provide a wide variety of partnerships with the state sector.

The economic impact report carried out by BiGGAR economics stated there are 120,000 people in Scotland, who don't attend independent schools, who are benefiting from the sharing of learning and resources. That is more than four times as many people, as attend independent schools.

Partnerships include the roll out of a new qualification which is being piloted in several state schools ahead of a planned roll out to all state schools next year, the provision of online learning resources to all learners and parents, and the sharing of sports facilities to the public and sports organisations.

Recent partnership initiatives also include the sharing of wellbeing resources with state school pupils and oracy initiatives.

The UK Government could therefore achieve many of its intended policy outcomes by working with the independent sector in Scotland for the benefit of all pupils.

SCIS is calling for a formal mechanism to be established to build on the partnerships which already exist between state and independent schools in Scotland. Such a mechanism could deliver more for Scottish school pupils than a tax which will disrupt the learning of many pupils and staff, place a strain on state schools and result in uncertain, if any, benefits for Scottish education.

The Scottish Council of Independent Schools would be happy to discuss any of the points within this response in more detail if that would be helpful to Ministers or officials.

Regards,



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