The Non-Domestic Rates (Scotland) Bill (the Bill) is based upon the recommendations of the Barclay Review. For the purposes of my response, I refer to the Barclay Review.

1. Core to the Barclay Review is the desire to:
   (a) “identify ways in which the rates system could improve and stimulate economic performance;
   (b) Increase fairness and ensure a level playing field;
   (c) Make the rates system as fair as possible and remove what can be perceived as anomalies in the system”

2. The Barclay Review states at 4.120 that independent schools that are charities benefit from reduced or zero rates bills, whereas council schools do not. The Review (and the Bill) propose that this “anomaly” be removed.
   (a) This premise ignores that council owned schools do not in practice pay non-domestic rates. The nominal rates liability is funded by central/local taxation.
   (b) The Barclay Review’s remit was to examine non-domestic rates liability only. It was not possible for it to consider any other tax. In removing the “anomaly” regarding relief for non-domestic rates relief through the Bill, there has been no consideration or public debate on other tax anomalies that apply as between council schools and independent schools (for example, in relation to VAT). Council owned schools benefit from a more advantageous VAT position than independent schools.
   (c) If the true aim of removing the mandatory non-domestic rates relief for independent schools is about fairness, a full review regarding the tax basis for both types of educational establishment should be conducted, openly, fairly and with due public scrutiny. To proceed with legislation, based on a Report whose sole remit was to consider a single tax in isolation does not correct an anomaly. It risks creating further anomalies and is potentially unfair and undemocratic. If the basis for the removal of rates relief for independent schools which are also charities is to be “fairness”, then to be truly fair, a full review of the full tax basis for both types of schools should be undertaken, openly and with due process.
   (d) It seems illogical to argue that independent schools should have the rates relief removed because council schools do not benefit from it, yet to recommend (at paragraph 4.121 of the Barclay Review) that universities
should continue to be eligible for charitable relief because their “core functions” are education and research. Independent schools which are also charities (and therefore the entities which are potentially to suffer the loss of rates relief in terms of the Bill) have all met the Office of the Scottish Charity Regulator’s (OSCR) public benefit test, as have the universities. One the one hand, the basis for removal of rates relief for independent schools appears to that they are schools, because they have a theoretical rates advantage over council schools which should be removed in the interests of fairness, ignoring the charitable status of these schools. Yet, universities with a similar charitable status and educational purpose are not regarded as an anomaly and are to be allowed to retain charitable relief. This seems illogical and unfair and appears to create, rather than solve an anomaly.

3. Scotland can be proud of the rigour which OSCR applies to the charitable sector in Scotland. It applies and regulates the statutory test for charities set out in the Charities and Trustee Investment (Scotland) Act 2005. The Bill proposes to remove charitable rates relief from independent schools even though they have met the requirements of OSCR. It is hard to understand what is fair about singling out 56 schools from over 24,000 Scottish registered charities. There seems no suggestion that OSCR is failing in its duty as regulator, yet the Bill seeks to create a sub sector within the charitable sector - for 0.3 per cent of Scottish charities. That this small percentage of regulated charities should somehow be not be regarded as “full” charities (despite having met all of the statutory requirements) seems illogical, lacking in transparency and creates, rather than solves, an anomaly.

4. The Barclay Review recommended rates relief for day nurseries on the basis of economic development: that by reducing the rates liability for nurseries, costs would reduce enabling more of the workforce to return to work after starting a family. This is at an estimated cost of £7m. This proposal applies to nurseries, whether profit making or not-for profit. Yet, nurseries which are attached to independent schools will pay 100% rates and private profit-making nurseries will receive 100% relief. This is unfair, and creates an anomaly, contrary to the stated aim, and remit of the Barclay Review.

5. A key aim of the Barclay Review is to “stimulate economic performance” (it is interesting that the Report refers to “businesses” the majority of the time, yet makes recommendations into a particular sub-sector of the charitable sector). Independent schools in Scotland employ teachers, groundsmen and finance staff. They are proudly Scottish – many make a point of “buying Scottish”. They employ local firms of builders, joiners and maintenance teams. If the rates relief is removed, fees for parents will have to increase. If parents cannot afford to pay the fees, they will remove their children from school. Independent schools in Scotland face real challenges, as evidenced by Beaconhurst School in Dunblane closing in recent
years. Removing rates relief puts added financial pressure on these schools and puts jobs at risk with implications for the wider Scottish economy, particularly in some of the rural areas.

6. The Barclay Review ignore that the 20% if non-domestic rates paid by independent schools (which is funded by the parents) is entirely new revenue raised as taxation – further evidence of the economic contribution of independent schools.

7. If fees increase and parents remove their children to the state system, local authorities will face additional costs of providing education for those pupils: school accommodation, teachers and other facilities.

8. Independent schools make their sports facilities open to the public. As charities, generally these facilities are available on beneficial terms for local clubs and organisations. If rates relief is removed, schools will be forced to try to recover some the costs by increasing hire costs for clubs. Scottish Government should be encouraging healthy, active lifestyles – not taking steps to increase costs for charities who make facilities available.

9. Scotland has a strong reputation for excellence in education. This proposal to remove rates relief puts the independent sector in Scotland at a competitive disadvantage as against schools in England and abroad.

IN CONCLUSION

- The Barclay Review’s remit was to examine non-domestic rates liability only. It was not possible for it to consider any other tax. In removing the “anomaly” regarding relief for non-domestic rates relief through the Bill, there has been no consideration or public debate on other tax anomalies that apply as between council schools and independent schools.
- The removal of relief undermines the charitable sector in Scotland, and the role of OSCR as an independent regulator.
- The removal of the relief will almost certainly result in increased fees which many parents cannot afford. Pupils moving from independent schools to council schools will put increased pressure on already stretched Education Authority budgets.
- The removal of the relief puts at risk the wider economic benefits which independent schools bring to Scotland in terms of employment.
- The removal of the relief is likely to have implications for the communities in which these schools are based, with communities either losing access to, or facing increased costs for use of sports facilities, adding further pressure to local authority services.
That part of the Bill relating to the removal of the charitable relief should not be proceeded with.