

**THE CHARITY COMMISSION FOR ENGLAND AND WALES**

Under the power given in the Charities Act 1993 and section 26 of the Birmingham (King Edward the Sixth) Schools Act 1900

Orders that from today, the

this

**SCHEME**

will alter or affect the existing trusts of the charity

known as

**THE SCHOOLS OF KING EDWARD VI IN BIRMINGHAM (529051)**

in the

City of Birmingham

**1. Definitions**

In this Scheme:

“the Charity” means the charity identified at the beginning of this Scheme.

“the amending documents” means the Schemes of the Board of Education on 30 July 1909, 11 December 1914 and 17 October 1922; Article 13(a) of the Articles of Government made by the Minister of Education on 10 September 1948; a Scheme made by the Secretary of State for Education and Science on 12 November 1974; and Schemes made by the Charity Commission on 5 April 1976, 18 July 1980, 2 May 1984, 1 September 1989 and 16 April 2009, a modification order made by the Secretary of State for Education on 29 July 2011.

“the Act” means the Birmingham (King Edward the Sixth) Schools Act 1900.

“the Governors” means the body corporate called the Governors of the Schools of King Edward the Sixth in Birmingham acting as Trustee of the Charity and “Governor” means one of the members of that body.

## 2. Administration

The Charity is to be administered by the Governors in accordance with the Act as altered or affected by this Scheme. This Scheme replaces the amending documents.

## 3. Alteration of trusts

The Act will take effect with the following alterations:

- (1) In section 3 is added

The expression “existing Governors” means those Governors holding office on [insert date Scheme is authorised]

The expressions “Schools of the Foundation” and “School of the Foundation” mean any schools or school in the City of Birmingham or elsewhere in the United Kingdom designated as such by a Statute made by the Governors. Any such school or schools must be a school within the meaning of, and conducted in accordance with, the requirements of the Education Acts. Subject to the provisions of those Acts, religious instruction in accordance with the principles of the Christian faith shall be given in Schools of the Foundation.

The expression “the governing document” means the Birmingham (King Edward the Sixth) Schools Act 1900 as amended from time to time.

The expression “the Charity” means The Schools of King Edward VI in Birmingham, registered charity 529051.

References to an Act of Parliament are to that Act as amended or re-enacted from time to time.

- (2) Sections 6 – 15 inclusive replaced by the following:

### **THE GOVERNORS**

#### **6. The Governors**

- (1) There should be:

12 nominated Governors and  
12 co-opted Governors

appointed in accordance with sections 7 and 8.

- (2) Subject to section 12 (Termination of Governorship) the existing Governors shall continue to hold office until the expiration of their present appointment.

## **7. Nominated Governors**

- (1) The nominated Governors must be appointed as follows:

Two by Birmingham City Council;

One by the Council of the University of Oxford;

One by the Council of the Senate of the University of Cambridge;

One by the Council of the University of Birmingham;

One by the Council of the University of Aston in Birmingham;

One by the Birmingham Chamber of Commerce and Industry;

One by the Confederation of British Industry (West Midlands Region);

Four by or on behalf of the Schools of the Foundation in accordance with Standing Orders made by the Governors.

- (2) Any nomination must be made at a meeting held according to the ordinary practice of the nominating body. The nominee shall be appointed in accordance with a Standing Order of the Governors made under Section 17.

- (3) Each appointment must be made for a term of 5 years.

- (4) The appointment will be effective from the later of:

(i) the date of the vacancy; and

(ii) the date on which the Governors or their secretary or clerk on behalf of the Governors confirm the appointment. The Governors may decide not to confirm the appointment if they consider that such appointment would not be in the best interests of the Charity.

- (5) The person appointed need not be a member of the relevant nominating body.

## **8. Co-opted Governors**

- (1) The appointment of a co-opted Governor must be made at a meeting of the Governors called in accordance with a Standing Order made under Section 17.
- (2) An appointment may, but need not, be made before the date on which the term of office of an existing co-opted Governor comes to an end, to take effect on that date. In these circumstances:
  - (i) the appointment may not be made more than 3 months before the date on which the existing co-opted Governor's term of office is due to end; and
  - (ii) any co-opted Governor whose term of office is about to come to an end must not vote in favour of their own re-appointment.
- (3) Each appointment must be for a term of 5 years.

#### **9. New Governors**

- (1) The Governors must give to each new Governor, on their first appointment:
  - (i) a copy of the governing document of the Charity, including this Scheme and any amendments made to it;
  - (ii) a copy of the Charity's latest report and statement of accounts.

#### **10. Register of Governors**

- (1) The Governors must keep a register of the name and address of every Governor and the dates on which their terms of office begin and end. Every Governor must sign the register before acting as a Governor, both on their first appointment and on any later re-appointment.
- (2) The Governors must promptly report any vacancy in the office of nominated Governor to the body entitled to appoint the Governor.

## 11. Payments to the Governors

- (1) A Governor may receive from the Charity reasonable expenses properly incurred, or to be incurred, by him or her when acting on behalf of the Charity.
- (2) No Governor may:
  - (i) buy or receive goods or services from the Charity on terms preferential to those applicable to other members of the public; or
  - (ii) be employed by the Charity or by any School of the Foundation; or
  - (iii) receive any payment or other financial benefit from the Charity; or
  - (iv) acquire or hold any interest in property of the Charity (except in order to hold it as a Governor of the Charity);

unless the payment or transaction is:

- (a) permitted in accordance with, and subject to the conditions in, section 73A or 73F of the Charities Act 1993 (services including goods supplied in connection with the service provided by a charity trustee to a charity; trustee indemnity insurance); or
  - (b) permitted under sub-clause (1) of this section 11; or
  - (c) permitted in accordance with, and subject to the conditions in, sub-clause (3) or (4) of this Section 11; or
  - (d) previously and expressly authorised in writing by the Charity Commission.
- (3) A Governor may receive payment for goods supplied to the Charity, provided that:
    - (i) the sums paid to the Governor do not exceed an amount that is reasonable in all the circumstances; and
    - (ii) the Governor is absent from the part of any meeting at which there is discussion of the proposal to enter into a contract or arrangement with him or her with regard to the supply of goods to the Charity; and

- (iii) the other Governors are satisfied that it is in the interests of the Charity to contract with that Governor, rather than with someone who is not a Governor (in reaching that decision, the Governors must balance the advantages and disadvantages of contracting with a Governor); and
  - (iv) the reason for their decision is recorded by the Governors; and
  - (v) the number of Governors in receipt of any payments authorised by this Section 11 is a minority of the Governors then in office.
- (4) A Governor may receive a benefit from the Charity in the capacity of a beneficiary of the Charity provided that a majority of the Governors do not benefit in this way. This includes the remission of all or part of the fees payable in respect of the attendance of a child or grandchild of a Governor at a School of the Foundation if following a process of assessment or adjudication in which the Governor concerned takes no part, such child or grandchild is awarded a scholarship or bursary or some other form of financial assistance in connection with his or her attendance at a School of the Foundation.
- (5) In this section:
- (i) "Charity" includes any company in which the Charity:
    - (a) holds more than 50% of the voting rights attached to the shares; or
    - (b) controls more than 50% of the voting rights attached to the shares; or
    - (c) has the right to appoint one or more directors to the Board of the company;
  - (ii) "Governor" includes any child, parent, grandchild, grandparent, brother, sister, spouse or civil partner of the Governor or any person living with the Governor as his or her partner.

## 12. Termination of Governorship

- (1) A Governor will cease to be a Governor if he or she:
- (i) is disqualified from acting as a Governor by section 72 of the Charities Act 1993; or

- (ii) is absent without the permission of the Governors from all their meetings held within a period of 6 months and the Governors resolve that his or her office be vacated; or
- (iii) gives not less than one month's notice in writing of his or her intention to resign (but only if at least 7 Governors will remain in office when the notice of resignation is to take effect); or
- (iv) is barred or disqualified either from working with children or from any regulated activity relating to children under any list established and maintained under legislation relating to the safeguarding of children.

### **13. Recording of meetings**

The Governors must keep a proper record of their meetings.

(3) Sections 16 (2), 16(3), 17 – 22 inclusive, 25 and 61 – 67 inclusive replaced with:

## **POWERS OF THE GOVERNORS**

### **17. Powers of the Governors**

In addition to any other powers which they have, the Governors may exercise the following powers in furtherance of the objects of the Charity:

- (1) Power to acquire land
- (2) Power to invest the funds of the Charity in any manner permitted by law.
- (3) Power to use investments and other personal property as security for loans needed for any purpose of the Charity.
- (4) Power to delegate the performance of any act, including the exercise of any power or discretion, to a committee consisting of any two or more persons in accordance with Standing Orders made by the Governors. The majority of persons on any committee must be Governors. (The Governors must exercise reasonable supervision over the committee and the committee must promptly report their acts and proceedings to the Governors.) The committee must not incur expenditure on behalf of the Charity except in accordance with a budget previously agreed by the Governors.

- (5) Power to co-operate with other charities, voluntary bodies and statutory authorities. The Governors may exchange information and advice with them.
- (6) Power to make donations to charities whose objects are similar to those of the Charity.
- (7) Power to make donations to any charity established in connection with one or more of the Schools of the Foundation.
- (8) Power to maintain an archive of documentation and other material relating to the Charity or any of the Schools of the Foundation.
- (9) Power to raise funds and accept donations for the general or any specific purpose or activity of the Charity. (In raising funds the Governors must not undertake any taxable permanent trading activity.)
- (10) Power to insure against public liability and, if appropriate, employers' liability; and to insure the buildings of the Charity to their full value against fire and all other usual risks (except to the extent that the buildings are insured against any of these risks by a tenant).
- (11) Power to make, repeal and amend Statutes and Standing Orders for any matter specifically requiring such a Statute or Standing Order in the governing document of the Charity and in addition to make Statutes and Standing Orders consistent with the governing document for:
  - (i) Admission to, and fees to be paid (if any) at, the Schools of the Foundation (all Statutes and Standing Orders must be consistent with the governing document and the Education Acts);
  - (ii) the management and administration of the Charity and its property including (but not limited to):
    - (a) the summoning and conduct of, voting at, and setting a quorum for, meetings;
    - (b) the appointment of a Bailiff, Chairman and other officers;
    - (c) the employment of staff; (d) the conduct of the schools carried-on on the property of the Charity (so far as permitted or required by the Education Acts).

Provided always that:

1. The making, amending or repealing of a Statute must be considered at a special meeting of the Governors that is attended by at least 75% of the Governors for the time being and will only be effective if the number nearest two-thirds of the number of Governors attending the special meeting or 13 of the Governors (whichever is the greater) vote in favour of the proposed making, amending or repealing of the Statute concerned.
  2. When repealing or amending any Statute or Standing Order relating to the discipline or educational business of any School of the Foundation, the Governors shall consult and consider the views of the Head teacher of the School or Schools affected.
- (12) Power by Standing Order to relocate or re-site any of the Schools of the Foundation.
  - (13) Power by Standing Order to enlarge, alter, or re-build any of the Schools of the Foundation.
  - (14) Power by Statute to close any of the Schools of the Foundation or to open a new School of the Foundation.
  - (15) Power by Statute to designate (or to revoke the designation of) any school as a School of the Foundation.
  - (16) Power to make Standing Orders (which must be consistent with the governing document) for:
    - (i) the award of grants and prizes;
    - (ii) the method of selecting candidates for benefit; and
    - (iii) the terms of the award.
  - (17) The Governors may associate a grant or prize with the name of any benefactor of the School. The Governors must consult with the Head Teacher of the relevant school before awarding any grant or prize.
  - (18) Subject to Section 11 (Payments to the Governors) power to appoint staff and pay them reasonable remuneration, including pension provision for them and their dependants.
  - (19) Power to do anything else within the law which promotes or helps to promote the object of the Charity.

- (4) Clauses 3, 4, and 6 of the Scheme of 1 September 1989, as set out in the Schedule to this Scheme, are inserted as sections 18 – 20 of the Act.
- (5) Section 24 deleted.
- (6) Section 26 replaced with:

**26. Amendment of this Act**

- (1) Any provision of this Act may be modified or superseded by the Court or the Charity Commission as if the Act were a Scheme brought into effect by order of the Charity Commission under Section 16 of the Charities Act 1993.
  - (2) In this Section 'Court' has the same meaning as in the Charities Act 1993.
- (6) Sections 16(4) and 27 – 59A inclusive and 69 replaced with

**OBJECT**

**27. Object of the Charity**

(1) The object of the Charity is, for the public benefit, to advance education (including physical education) through any or all of the following means:

- (a) the provision of a site or sites for any School of the Foundation;
- (b) the support and/or maintenance and/or conduct of Schools of the Foundation including:
  - (i) ancillary or incidental educational activities and associated activities for the benefit of the community (including evening classes);
  - (ii) the support (both financial and non-financial) of any charity established in connection with one or more of the Schools of the Foundation;
- (c) giving grants, bursaries or other payments to pupils or students attending (or successfully applying to attend) any School of the Foundation who are in need of financial assistance;
- (d) awarding to pupils or students attending (or who have attended) any School of the Foundation prizes, scholarships, exhibitions, bursaries, maintenance allowances or grants tenable at any School of the Foundation or at any school, university, college of education, or other institution of further (including professional and technical) education approved for the purpose by the Governors.

(2) The Governors shall keep a register of all Schools of the Foundation (including those schools that are Schools of the Foundation on [date of scheme]).

## CHARITY PROPERTY

### 28. Leases of property

In addition to the powers at Section 16(1), where an Academy Order under the Academies Act 2010 has been made in respect of a School of the Foundation, the Governors may grant a lease or licence of any of their property to a qualifying Academy proprietor (within the meaning of section 12 of the Academies Act 2010) or to such other body as the Secretary of State has approved to conduct or carry on the Academy at such rent or other consideration (which may be one peppercorn) as may be agreed by the Governors.

### 29. Use of income and capital

- (1) The Governors must firstly apply:
  - (i) subject to any further direction of the Charity Commission, one half of the income of the property known as Sampson Road North, Sparkbrook, Birmingham, B11 1BH to the Trustees of the Tasker, Milward and Picton charity (525678) for application for the purposes of that charity;
  - (ii) subject to the payment above, the Charity's income; and
  - (iii) if the Governors think fit, expendable endowment; and
  - (iv) when the expenditure can properly be charged to it, its permanent endowment,  
  
in meeting the proper costs of administering the Charity and of managing its assets (including the repair and insurance of its buildings).
- (2) After payment of these costs, the Governors must apply the remaining income in furthering the object(s) of the Charity.
- (3) The Governors may also apply for the object(s) of the Charity:
  - (i) expendable endowment; and

- (ii) permanent endowment, but only:
  - (a) where it is permitted in accordance with, and subject to the conditions in, section 75, section 75A or section 75B of the Charities Act 1993 (power of unincorporated charities to spend capital); or
  - (b) on such terms, including for the replacement of the amount spent, as the Charity Commission may approve in advance.
- (4) One half of the net proceeds of sale the property described in (1)(i) above must, subject to any further direction of the Charity Commission, be transferred to the trustees of the Tasker, Milward and Picton charity (525678) to be held as part of the [endowment] funds of that charity. The remaining half shall form part of the [endowment] funds of the Charity.

#### **GENERAL PROVISIONS**

#### **4. Questions relating to the Scheme**

The Charity Commission may decide any question put to it concerning:

- (1) the interpretation of this Scheme; or
- (2) the propriety or validity of anything done or intended to be done under it.

#### **SCHEDULE**

Clauses 3, 4 and 6 of the Scheme of 1 September 1989 now sections 18 – 20 of the Act:

##### **18. Combined pools.**

(1) The Governors may consolidate the investments and moneys belonging to the Charities (other than land) which are held upon trusts under which the income only may be expended for general or special purposes in connection with the Charities into one combined pool under the name of the Schools of King Edward the Sixth in Birmingham (Pool A) Common Investment Fund.

(2) The Governors may consolidate the investments and moneys belonging to the Charities (other than land) which are held upon trusts under which the capital and income may be expended for general purposes in connection with the Charities into one combined pool under the name of the Schools of King Edward the Sixth in Birmingham (Pool B) Common Investment Fund.

(3) The Governors may consolidate the investments and moneys belonging to the Charities (other than land) which represent the proceeds of sale of land belonging to any of the Charities available for re-investment in other land under the provisions of section 16 of the said Act (as extended by the provisions of this Scheme) into one combined pool under the name of the

Schools of King Edward the Sixth in Birmingham (Pool C) Common Investment Fund.

(4) Each fund established as aforesaid howsoever the said investments and moneys may be represented or constituted or augmented from time to time shall be a common investment fund within the meaning of the Charities Act 1960 and shall be invested under the control of the Governors who shall be the Trustees appointed to manage the funds; and this Scheme shall be a common investment scheme within the meaning of the Charities Act 1960.

**19. Additions to funds.**

(1) Any additional investments and any moneys requiring investment hereafter belonging to any of the Charities may be added to and form part of the appropriate one of the funds;

(2) Any investments and moneys belonging to any other Charity of which the Governors are the Trustees may be added to and form part of the appropriate one of the funds unless such addition is expressly precluded by or would be inconsistent with the trusts of the Charity concerned.

**20. Aliquot portions.**

Each of the Charities for the time being having investments and moneys included in the funds shall be regarded and treated for all purposes as interested in an appropriate undivided aliquot portion in the appropriate one of the funds.