

**MEMORANDUM
AND
ARTICLES OF ASSOCIATION**

WEST END SCHOOLS' TRUST

THE COMPANIES ACT 2006
COMPANY LIMITED BY GUARANTEE

ARTICLES OF ASSOCIATION
OF
WEST END SCHOOLS' TRUST

1. The Company's name is West End Schools' Trust.
2. The registered office of the Company is to be situated in England and Wales.

3. Objects

The Objects of the company are specifically restricted to the following:

- 3.1 To advance, for the public benefit, education, health, advancement of welfare and training within England and Wales for all the children, young people, their parents and School employees and communities nationally including, but without prejudice to the generality of the foregoing, the education of the pupils at any School which is a Qualifying School or at any other school in respect of which the Company acts or has acted as a foundation it being acknowledged that in carrying out the Objects the Company must, so far as is consistent with this purpose, have regard to its obligation to promote community cohesion under the Education Acts.

4. Powers

The Company has the following powers which may be exercised only in promoting the Objects:

- 4.1 To act as the foundation of any School which is a Qualifying School;
- 4.2 to acquire or hire and hold property of any kind including the acquisition of freehold or leasehold property to be held by the Company (either alone or jointly with any other person) in trust for the purpose of any School which is a Qualifying School;
- 4.3 to develop, improve, let or dispose of property of any kind (but only in accordance with the restrictions imposed by the Charities Act and any restrictions imposed by the Education Acts);

- 4.4 in relation to any School which is a Qualifying School, to appoint and remove a minority of foundation governors in compliance with the provisions of the Education Acts;
- 4.5 to act as the trustee of any trust relating to any School which is a Qualifying School;
- 4.6 to nominate one or more governors for appointment to the governing body of any other School, excluding the initial Member schools;
- 4.7 to exercise its rights as the foundation under the Education Acts of any School which is a Qualifying School;
- 4.8 to raise funds;
- 4.9 to borrow money and give security for loans (but only in accordance with the restrictions imposed by the Charities Acts and any restrictions imposed by the Education Acts);
- 4.10 to promote or carry out research;
- 4.11 to provide advice;
- 4.12 to publish or distribute information;
- 4.13 to co-operate with other bodies;
- 4.14 to support, administer or set up other charities;
- 4.15 to make grants or loans of money and to give guarantees;
- 4.16 to set aside funds for special purposes or as reserves against future expenditure;
- 4.17 to pay for Indemnity Insurance for the Directors;
- 4.18 subject to Article 5, to employ paid or unpaid agents, staff or advisers;
- 4.19 to enter into contracts to provide services to or on behalf of other bodies;
- 4.20 to establish or acquire subsidiary companies to assist or act as agents for the Company;
- 4.21 to pay the costs of forming the Company; and
- 4.22 to do anything else within the law which promotes or helps to promote the Objects.

5. Benefits to Members and Directors

- 5.1 The property and funds of the Company must be used only for promoting the Objects and cannot be distributed to the Members but:

- (1) Members who are not Directors may be employed by or enter into contracts with the Company and receive reasonable payment for goods or services supplied;
- (2) Members (including Directors) may be paid interest at a reasonable rate on money lent to the Company; and
- (3) Members (including Directors) may be paid a reasonable rent or hiring fee for property or equipment let or hired to the Company.

5.2 A Director must not receive any payment of money or other Material Benefit (whether directly or indirectly) from the Company except:

- (1) as mentioned in Articles 4.17 (Indemnity Insurance), 5.1(2) (interest), 5.1(3) (rent) or 5.3 (contractual payments);
- (2) reimbursement of reasonable out-of-pocket expenses (including hotel and travel costs) actually incurred in the administration of the Company;
- (3) an indemnity permitted by section 232 of the Companies Act 2006;
- (4) the benefit of any payment to any Company in which a Director has no more than a 1 per cent shareholding; and
- (5) in exceptional cases, other payments or benefits (but only with the written approval of the Commission in advance).

5.3 A Director may not be an employee of the Company, but a Director or a Connected Person may enter into a contract with the Company to supply goods or services in return for a payment or other Material Benefit if:

- (1) the goods or services are actually required by the Company;
- (2) the nature and level of the benefit is no more than reasonable in relation to the value of the goods or services and is set at a meeting of the Directors in accordance with the procedure in Article 5.4; and
- (3) provided that the Company may not enter into such a contract at any time when the effect of such contract would be that more than one third of the Directors are or have been interested in such a contract in that Financial Year.

5.4 Whenever a Director has a personal interest in a matter to be discussed at a meeting of the Directors or a committee, they must:

- (1) declare an interest before the meeting or at the meeting before discussion begins on the matter;
- (2) be absent from the meeting for that item unless expressly invited to remain in order to provide information;
- (3) not be counted in the quorum for that part of the meeting; and
- (4) be absent during the vote and have no vote on the matter.

6. Limited Liability

6.1 The liability of Members is limited in accordance with Article 7.

7. Guarantee

7.1 Every Member promises, if the Company is wound up while he, she or it remains a Member, or within 12 months afterwards, to pay up to £10 towards the costs of winding up, towards adjusting the rights of the contributories amongst themselves and towards discharging the liabilities incurred by the Company while he, she or it was a Member.

8. Dissolution

8.1 When purchasing assets the Members shall agree an exit strategy and any associated payment terms. In the absence of any alternative agreement assets shall be shared equally among the Members upon dissolution.

8.2 If the Company is dissolved and subject always to the provisions of the Education Acts (insofar as those provisions do not require the application of the assets of the Company for purposes which are not charitable), the assets (if any) remaining after provision has been made for all its liabilities must be applied in one or more of the following ways where applicable:

- (1) by transfer to one or more other bodies established for exclusively charitable purposes within, the same as or similar to the Objects;
- (2) directly for the Objects or for charitable purposes which are within or similar to the Objects;
- (3) in such other manner consistent with charitable status as the Commission approves in writing in advance.

8.3 A final report and statement of account must be sent to the Commission.

9. Interpretation

- 9.1 References to an Act of Parliament are references to that Act as amended or re-enacted from time to time and to any subordinate legislation made under it.

10. Membership

- 10.1 The Company must maintain a register of Members.
- 10.2 The subscribers to the Memorandum are the first Members of the Company.
- 10.3 Subject to any restrictions imposed by the Education Acts, membership of the Company is open to any other individuals or organisations interested in promoting the Objects who:
- (1) are approved by the Directors; and
 - (2) sign the register of Members or consent in writing to become a Member either personally or (in the case of an organisation) through an authorised representative.
- 10.4 Membership is terminated if the Member concerned:
- (1) gives written notice of resignation to the Company;
 - (2) dies or (in the case of an organisation) ceases to exist; or
 - (3) is removed from membership by resolution of the Directors on the ground that in their reasonable opinion the Member's continued membership is harmful to the Company. The Directors may pass such a resolution only after notifying the Member in writing and considering the matter in the light of any written representations which the Member concerned puts forward within 14 Clear Days after receiving notice.
- 10.5 Membership of the Company is not transferable.

11. General Meetings

- 11.1 Members are entitled to attend general meetings either personally or (in the case of a Member organisation) by an authorised representative. General meetings are called on at least 14 Clear Days' written notice specifying the business to be discussed but a general meeting may be called by shorter notice pursuant to the provisions of the Companies Acts.
- 11.2 Save in the case of where the Company has a single Member (in which case the quorum shall be one), there is a quorum at a general meeting provided at least 80% of School Members are present.

- 11.3 The Chair or (if the Chair is unable or unwilling to do so) the Vice-Chair shall preside at a general meeting.
- 11.4 Except where otherwise provided by Article 11.5, the Companies Acts or the Education Acts, every issue is decided by a majority of the votes cast.
- 11.5 Decisions made at a meeting of the members in relation to any dealing in land held by the Company shall be made only by resolution and no such resolution shall be passed unless:
- (1) more votes are cast for it than against it; and
 - (2) The Local Authority Director is in attendance or represented at the meeting of the members; and
 - (3) the School Member to whom the land relates is in attendance or is represented at the meeting of the members; and
 - (4) the School Member to whom the land relates or its authorised representative has voted in favour of it and provides a resolution in favour of the dealing from the relevant Governing Body of the School Member at the meeting.
- 11.6 The Members shall agree the Business Plan.
- 11.7 Every member present in person or through an authorised representative has one vote on each issue.
- 11.8 A general meeting may be called at any time by the Directors and must be called in accordance with the provisions of the Companies Acts on the requisition of members pursuant to the provisions of the Companies Acts.

12. The Directors

- 12.1 The Directors as Charity Trustees have control of the Company and its property and funds.
- 12.2 The number of Directors shall not be less than four, and (unless otherwise determined by Ordinary Resolution) shall be subject to a maximum of twenty four, School Directors must remain in the majority of Directors at all times.
- 12.3 The appointment and removal of Directors shall be subject to any restrictions imposed by the Education Acts.
- 12.4 The first Directors shall be those persons notified to Companies House as the first Directors of the Company.
- 12.5 Every Director must sign:

- (1) a declaration of willingness to act as a Director of the Company; and
- (2) a declaration confirming that they are not disqualified from acting as a Charity Trustee under the Education Acts;

before they may vote at any meeting of the Directors.

12.6 (1) Other than a Local Authority Member, each School Member shall be entitled (but not obliged) to appoint two Directors of the Company and at any time to remove its nominated Directors from office. If a Director nominated by a member shall die or be removed from or vacate office for any cause, then that member shall be entitled to appoint another person as a Director of the Company.

(2) The Local Authority Member for the time being shall be entitled (but not obliged) to appoint one person to be a Local Authority Director of the Company and at any time to remove the nominated Director from office provided always that any such appointment or removal shall require the Local Authority Member to act in the majority.

(3) Should the number of Members exceed 8 then each School Member shall be entitled (but not obliged) to appoint one Director, rather than 2 Directors, of the Company and at any time to remove its nominated Director from office. The School Directors at all times shall be a balance being 40% head teachers and 40% school governors, as determined by the School Members.

12.8 Any removal or appointment of a Director pursuant to Articles 12.6 and 12.7 shall be in writing, signed by or on behalf of the relevant member(s) and sent to the Company at its registered office, marked for the attention of the secretary, where appointed, or delivered to a duly constituted meeting of the Directors of the Company. Any such appointment or removal shall take effect as at the time of such lodgement or delivery or at such later time as shall be specified in such notice.

12.9 The Company may by Ordinary Resolution appoint any person who is willing to act as an additional Director or to fill a vacancy provided:

- (1) they are recommended by not less than two thirds of the Directors; and
- (2) if appointed they would not be disqualified from acting under Article 12.10.

A decision exercising the power of appointment or removal will be communicated by notice in writing to the Director concerned signed by or on behalf of the Directors.

12.10 A Director's term of office automatically terminates if they:

- (1) are disqualified under the Charities Acts from acting as a Charity Trustee;
- (2) are removed as, or disqualified from acting as, a Charity Trustee under the Education Acts or is otherwise prohibited by law from being a Charity Trustee or a Director;
- (3) are incapable, whether mentally or physically, of managing their own affairs;
- (4) is absent from three consecutive meetings of the Directors and is asked by a majority of the other Directors to resign;
- (5) are a member and cease to be a member or, in the case of a Director nominated by a member, that member ceases to be a member;
- (6) resign by written notice to the Directors (but only if at least two Directors will remain in office);
- (7) are removed by resolution of the members present and voting at a general meeting after the meeting has invited the views of the Director concerned and considered the matter in the light of any such views;
- (8) are a governor or head teacher of any School which is a Qualifying School and are removed from that office.

12.11 The Directors may at any time co-opt any individual who is qualified to be appointed as a Director to fill a vacancy in their number or as an additional Director, but a co-opted Director holds office only until the next general meeting.

12.12 A minor technical defect in the appointment of a Director of which the Directors are unaware at the time does not invalidate decisions taken at a meeting.

APPOINTMENT AND RETIREMENT BY ROTATION OF DIRECTORS

12.13 If Article 12.6 (3) applies each School Director shall serve a maximum term of 2 years unless re-appointed. No School Director shall serve for a consecutive duration exceeding four years unless agreed by the School Directors. If Article 12.6 (3) does not apply the School Directors who are governors shall retire on a bi-annual basis.

- 12.14 If article 12.6(3) applies, four of the School Directors shall retire bi-annually at the end of a school year, two of whom shall be head teachers and two school governors.
- 12.15 Subject to the provisions of these Articles, the School Directors to retire at the end of each school year shall be the Directors who have been longest in office since their last appointment. As between Directors of equal seniority, the Directors to retire shall in the absence of agreement be selected from among them by lot. Subject as aforesaid, a retiring Director shall be eligible for re-appointment and shall act as a Director throughout the meeting at which they retire.
- 12.16 The Company may at the meeting at which any Director retires in manner aforesaid fill up the vacated office by appointing a person who is nominated by the same Member from where the School Director is retiring and who is willing to act to be a Director, and in default the retiring Director, if willing to act, shall be deemed to have been re-appointed unless at such meeting it is expressly resolved not to fill such vacated office or a resolution for the re-appointment of such Director shall have been put to the meeting and lost.
- 12.17 No person, other than a Director retiring at the meeting shall, unless recommended by the Directors for appointment, be eligible for appointment to the office of Director at any General Meeting unless, within the prescribed time before the day appointed for the meeting, there shall have been given to the Company notice in writing by a member duly qualified to be present and vote at the meeting, of their intention to propose such person for appointment and also notice in writing signed by the person to be proposed of their willingness to act, if so appointed. A member may not propose themselves for appointment. The prescribed time above mentioned shall be that, between the date when the notice is served or deemed to be served and the day appointed for the meeting, there shall be not less than 21 days. A proposal put to the meeting under this Article for the appointment of a person, not being a Director retiring at the meeting or a person recommended by the Directors, to be a Director shall be decided on a poll unless the Chair of the meeting rules otherwise.

13. Directors' proceedings

- 13.1 The Directors must hold at least three meetings each year. The Directors shall be responsible for implementing the Business Plan as agreed by the Members.
- 13.2 There is a quorum at a meeting of the Directors if the number of Directors present is at least one half (rounded up to a whole number) of the Directors of the Company at the time of the meeting and the majority of the quorum must be School Directors.

- 13.3 A meeting of the Directors may be held either in person or by suitable electronic means agreed by the Directors in which all participants may communicate with all the other participants.
- 13.4 The Chair or (if the Chair is unable or unwilling to do so) the Vice-Chair shall preside at each meeting.
- 13.5 Every issue may be determined by a simple majority of the votes cast at a meeting but a written resolution signed by all the Directors is as valid as a resolution passed at a meeting, save where the Business Plan indicates that a unanimous vote is required. For this purpose the resolution may be contained in more than one document and will be treated as passed on the date of the last signature.
- 13.6 Every Director has one vote on each issue. The Chair may exercise a casting vote using their discretion given the circumstances.
- 13.7 A minor procedural defect of which the Directors are unaware at the time does not invalidate decisions taken at a meeting.
- 13.8 The Chair shall serve for a maximum term of 2 years, unless re-appointed by a majority.
- 13.9 The Vice-Chair shall serve a maximum term of 2 years, unless re-appointed by a majority, in the first instance the Vice-Chair shall only remain in office for a 1 year term unless otherwise appointed.

14. Directors' powers

The Directors have the following powers in the administration of the Company:

- 14.1 To appoint (and remove) any person to act as Secretary in accordance with the Companies Acts.
- 14.2 To appoint a Chair in accordance with this Article 14.2 who shall be a School Director unless agreed otherwise by the School Directors.
- 14.3 To appoint a Vice-Chair in accordance with this Article 14.3.
- 14.4 To make rules consistent with the Articles and the Companies Acts to govern their proceedings and proceedings at general meetings.
- 14.5 To make regulations consistent with the Articles and the Companies Acts to govern the administration of the Company and the use of its seal (if any).
- 14.6 To establish procedures to assist the resolution of disputes or differences within the Company.

- 14.7 To exercise any powers of the Company which are not reserved to a general meeting.
- 14.8 To establish any committee.

14A. Alternate Director

- 14A.1 Any Director (other than an alternate director) may appoint any other person, to be an alternate director and may remove from office an alternate director so appointed by them. For the purposes of this clause an alternate director shall be approved by the School Member whom they seek to represent (or Local Authority if appropriate).
- 14A.2 An alternate director shall be entitled to receive notice of all meetings of Directors and all meetings of committees of Directors of which the Director is a member, to attend and vote at any such meeting at which the Director appointing them is not personally present and generally to perform all the functions of their appointer as a Director in their absence.
- 14A.3 An alternate director shall cease to be an alternate director if their appointer ceases to be a Director.
- 14A.4 Any appointment or removal of an alternate director shall be by notice to the Company signed by the Director making or revoking the appointment or in any other manner approved by the Directors.
- 14A.5 Save as otherwise provided in the Articles, an alternate director shall be deemed for all purposes to be a Director and shall alone be responsible for their own acts and defaults and shall not be deemed to be the agent of the Director appointing them.
- 14A.6 Should an alternate director seek to have a permanent position on the Board of Directors clause 12 shall apply in relation to removal of the previous Director and shall be subject to approval of the School Member (or Local Authority as appropriate).

15. Records and Accounts

- 15.1 The Directors must comply with the requirements of the Companies Acts and of the Charities Acts as to keeping financial records, the audit or other scrutiny of accounts and the preparation and transmission to the Registrar of Companies and the Commission of:
- (1) annual returns;
 - (2) annual reports; and
 - (3) annual statements of account.

- 15.2 The Directors must keep proper records of:
- (1) all proceedings at general meetings;
 - (2) all proceedings at meetings of the Directors;
 - (3) all reports of committees; and
 - (4) all professional advice obtained.
- 15.3 Accounting records relating to the Company must be made available for inspection by any Director at any time during normal office hours and may be made available for inspection by members who are not Directors if the Directors so decide.
- 15.4 A copy of the Company's latest available statement of account must be supplied on request to any Director or member. A copy must also be supplied, within two Months, to any other person who makes a written request and pays the Company's reasonable costs.

16. Notices

- 16.1 Notices under the Articles may be sent by hand, by post or by suitable electronic means.
- 16.2 The only address at which a member is entitled to receive notices sent by post is an address shown in the register of members.
- 16.3 Any notice given in accordance with these Articles is to be treated for all purposes as having been received:
- (1) 24 hours after being sent by electronic means or delivered by hand to the relevant address;
 - (2) two Clear Days after being sent by first class post to that address;
 - (3) on the date of publication of a newspaper containing the notice;
 - (4) on being handed to the member (or, in the case of a member organisation, its authorised representative) personally; or, if earlier,
 - (5) as soon as the member acknowledges actual receipt.
- 16.4 A technical defect in the giving of notice of which the Directors are unaware at the time does not invalidate decisions taken at a meeting.

17. Indemnity

Subject to the provisions of the Education Acts, the Company may indemnify any Director, Auditor, Reporting Accountant, Independent Examiner or other officer of the Charity against liability incurred by him or her in that capacity, in the case of a Director, to the extent permitted by section 232 of the Companies Act 2006 or, in the case of an Auditor, to the extent permitted by section 532 of that Act.

18. Avoiding Influenced Company Status

- 18.1 Notwithstanding the number of members from time to time, the maximum aggregate number of votes exercisable by local authority associated persons shall never exceed 19.9% of the total number of votes exercisable by members in general meeting and the votes of the other members having a right to vote at the meeting will be increased on a pro-rata basis.
- 18.2 No person who is a local authority associated person may be appointed as a Director if, once the appointment had taken effect, the number of Directors who are local authority associated persons would represent 20% or more of the total number of Directors. Upon any resolution put to the Directors, the maximum aggregate number of votes exercisable by any Directors who are local authority associated persons shall represent a maximum of 19.9% of the total number of votes cast by the Directors on such a resolution and the votes of the other Directors having a right to vote at the meeting will be increased on a pro-rata basis.
- 18.3 No person who is a local authority associated person is eligible to be appointed to the office of Director unless their appointment to such office is authorised by the local authority to which they are associated.
- 18.4 If at the time of either becoming a member of the Company or their first appointment to office as a Director any member or Director was not a local authority associated person but later becomes so during their membership or tenure as a Director they shall be deemed to have immediately resigned their membership and/or resigned from their office as a Director as the case may be.

- 18.5 If at any time the number of Directors or members who are also local authority associated persons would (but for Articles 18.1 to 18.4 inclusive) represent 20% or more of the total number of Directors or members (as the case may be) then a sufficient number of the Directors or members (as the case may be) who are local authority associated persons shall be deemed to have resigned as Directors or members (as the case may be) immediately before the occurrence of such an event to ensure that at all times the number of such Directors or members (as the case may be) is never equal to or greater than 20% of the total number of Directors or members (as the case may be). Directors or members (as the case may be) who are local authority associated persons shall be deemed to have resigned in order of their appointment date the most recently appointed resigning first.
- 18.6 The members will each notify the Company and each other if at any time they believe that the Company or any of its subsidiaries has become subject to the influence of a local authority (as described in section 69 of the Local Government and Housing Act).

20. Interpretation

- 20.1 In the Memorandum and in the Articles, unless the context indicates another meaning:

‘the Articles’ means the Company’s articles of association;

‘Authorised Representative’ means an individual who is authorised by a member organisation to act on its behalf at meetings of the Company and whose name is given to the Secretary;

‘the Business Plan’ means the strategic document agreed by the Members setting the objectives of the Company;

‘Chair’ means the chair of the Directors, who shall always be a School Director;

‘the Company’ means the company governed by the Articles;

‘the Charities Acts’ means the Charities Act 1993 and Charities Act 2006 as amended from time to time;

‘Charity Trustee’ has the meaning prescribed by section 97(1) of the Charities Act 1993;

‘Clear Day’ means 24 hours from midnight following the relevant event;

‘the Commission’ means the Charity Commission for England and Wales;

‘the Companies Acts’ means the operative provisions of the Companies Act 1985 and the Companies Act 2006;

‘Connected Person’ means any spouse, partner, parent, child, brother, sister, grandparent or grandchild of a Director, any firm of which a Director is a member or employee, and any company of which a Director is a director, employee or shareholder having a beneficial interest in more than 1 per cent of the share capital;

‘Director’ means a director of the Company and ‘Directors’ means the directors;

‘Education Acts’ means the Education Acts as defined in Section 578 of the Education Act 1996 and includes any regulations made under the Education Acts;

‘Financial Year’ means the Company’s financial year;

‘Firm’ includes a limited liability partnership;

‘Indemnity Insurance’ means insurance against personal liability incurred by any Director for an act or omission which is or is alleged to be a breach of trust or breach of duty, but subject to the limitations specified in section 73F(2) Charities Acts;

‘Local Authority Associated Persons’ means any person associated with any local authority within the meaning given in section 69 of the Local Government and Housing Act 1989;

‘Local Authority Director’ means any Director of the Company appointed by the Local Authority Member pursuant to Article 12.6(4);

‘Local Authority Member’ means the member of the Company who is a local authority;

‘Material Benefit’ means a benefit which may not be financial but has a monetary value;

‘Memorandum’ means the Company’s Memorandum of Association;

‘month’ means calendar month;

‘the Objects’ means the Objects of the Company as defined in Article 3;

‘Ordinary Resolution’ has the meaning prescribed by section 282 of the Companies Act 2006;

‘Qualifying School’ means a foundation school within the meaning of Section 21(1)(a) Schools Standards and Framework Act 1998 and for

the avoidance of doubt does not include St Paul's Primary (Church of England) Voluntary Aided School;

'School' means a school in respect of which the Company acts as a foundation for the purposes of the School Standards and Framework Act 1998 and shall include St Paul's primary Church of England) Voluntary Aided School;

'School Director' means any Director of the Company appointed by the School Members pursuant to Article 12.6(1) and/or the Chair appointed pursuant to Article 14.2 and 'School Directors' shall mean all such Directors;

'School Members' means both all those members of the Company who are Qualifying Schools and any person representing St Pauls Primary (Church Of England) Voluntary Aided School who becomes a member in accordance with Article 10 and 'School Member' shall mean any one of the School Members;

'Taxable Trading' means carrying on a trade or business for the principal purpose of raising funds and not for the purpose of actually carrying out the Object, the profits of which are subject to corporation tax and do not qualify for charity exemption;

'Vice-Chair' means the vice-chair of the Directors;

'Written' or 'in writing' refers to a legible document on paper or in electronic form (provided the requirements of Part 3 of Schedule 5 to the Companies Act 2006 are met).

'Year' means calendar year.

- 20.2 Expressions defined in the Companies Acts have the same meaning.
- 20.3 References to an Act of Parliament are to that Act as amended or re-enacted from time to time and to any subordinate legislation made under it.

As this version does in 14A1, 14A2 and 18.4, let's use the non-gender-specific "they", "them" and "their" rather than the clumsy "he or she", "him or her" and "his or her". (This use has a long history in English stretching back to at least Shakespeare's time.)