THE BIRMINGHAM (KING EDWARD THE SIXTH) SCHOOLS ACT 1900
INCLUDING THE AMENDMENTS MADE BY THE CHARITY
COMMISSION SCHEME OF 16 AUGUST 2023

PRELIMINARY.

1. This Act may be cited as the Birmingham (King Edward the Sixth) Schools Act 1900.
2. This Act shall come into operation on the first day of November one thousand nine hundred which date is hereinafter referred to as "the commencement of this Act."
3. In this Act:

The expression "**the Schools of King Edward the Sixth in Birmingham**" and the expression "**the said foundations**" mean the schools of King Edward the Sixth in Birmingham founded by Charter or Letters Patent of King Edward the Sixth dated the second day of January in the fifth year of his reign together with the foundation of John Milward created by his will dated the tenth day of June one thousand six hundred and fifty-four and the foundation of Joanna Lench created by her will dated the thirtieth day of April one thousand eight hundred and fifty-eight;

The expression "**the Governors**" means the governing body constituted by this Act;

The expression "the Scheme of 1883" means the scheme sealed by order of the Board of Charity Commissioners on the thirteenth day of April one thousand eight hundred and eighty-three.

The expression "**existing Governors**" means those Governors holding office on 16 August 2023.

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 re­enacted from time to time.

ADMINISTRATION OF SCHOOLS AND PROPERTY.

4—(1) The Schools of King Edward the Sixth in Birmingham and all their affairs shall be administered by the body corporate of governors by this Act constituted subject to and in accordance with the provisions of this Act.

1. All the estates property rights powers and liabilities vested in exercisable by or attaching to the governing body constituted by the Scheme of 1883 (including all property vested in or held by any person in trust for the said governing body) shall vest in be exercisable by and attached to the body corporate of Governors by this Act constituted subject to and in accordance with the provisions of this Act and this Act shall be a sufficient authority for the transfer to the body corporate of Governors by this Act constituted of any property so vested or held in trust as aforesaid.

CONSTITUTION OF GOVERNORS.

1. The body corporate originally incorporated under the above recited charter by the name of "The Governors of the possessions revenues and goods of the Free Grammar School of King Edward the Sixth in Birmingham in the county of Warwick" and continued under the name of "The Governors of the Schools of King Edward the Sixth in Birmingham" shall continue by that name and be a body corporate with a common seal and with power to sue and be sued and to hold land without any licence in mortmain and the members thereof for the time being shall be the same persons as the persons designated or nominated to be Governors by or under this Act and all rights powers and liabilities of the said body corporate as originally incorporated shall subject to the provisions of this Act remain rights powers and liabilities of the said body corporate under this Act and all the property of the said foundations shall be vested in the said body corporate and shall be held for the purposes of the said foundations subject to and in accordance with the provisions of this Act.

THE GOVERNORS.

1. **The Governors**
2. There should be up to 12 Governors appointed in accordance with section 7.
3. Subject to section 11 (Termination of Governorship), the existing Governors shall continue to hold office until the expiration of their present appointment.
4. **Appointment of Governors**
5. The appointment of a Governor must be made at a meeting of the Governors called in accordance with a Standing Order made under Section 16 (Powers of the Governors). In the event that there is a Nominations Committee, any such appointment may only be made following review by such Nominations Committee
6. Any Governor whose term of office is about to come to an end must not vote in favour of their own re-appointment.
7. Each appointment must be made for a term of 4 years unless otherwise agreed. Governors may serve up to two consecutive terms of office, following which a Governor must resign and may not be reappointed for a period of at least a year, unless the Governors agree that the Governor concerned should serve a third consecutive term of office. The terms of office of the existing Governors shall be taken into account when determining the terms of office which may be served under this section.
8. Not used
9. **New Governors**
10. The Governors must give to each new Governor, on their first appointment:
11. a copy of the governing document of the Charity, including this Scheme and any amendments made to it;
12. a copy of the Charity's latest report and statement of accounts.
13. **Register of Governors**
14. 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.
15. **Payments to the Governors**
16. 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.
17. No Governor may:
18. buy or receive goods or services from the Charity on terms preferential to those applicable to other members of the public; or
19. be employed by the Charity or by any School of the Foundation; or
20. receive any payment or other financial benefit from the Charity; or
21. 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:

1. permitted in accordance with, and subject to the conditions in, section 185 to 190 of the Charities Act 2011 (services including goods supplied in connection with the service provided by a charity trustee to a charity; trustee indemnity insurance); or
2. permitted under sub-clause (1) of this section 10; or
3. permitted in accordance with, and subject to the conditions in, sub­clause (3) or (4) of this Section 11; or
4. previously and expressly authorised in writing by the Charity Commission.
5. A Governor may receive payment for goods supplied to the Charity, provided that:
6. the sums paid to the Governor do not exceed an amount that is reasonable in all the circumstances; and
7. 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
8. 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
9. the reason for their decision is recorded by the Governors; and
10. the number of Governors in receipt of any payments authorised by this Section 11 is a minority of the Governors then in office.
11. 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.
12. In this section:
13. "Charity" includes any company in which the Charity:
14. holds more than 50% of the voting rights attached to the shares; or
15. controls more than 50% of the voting rights attached to the shares; or
16. has the right to appoint one or more directors to the Board of the company;
17. "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.
18. **Termination of Governorship**

(1) A Governor will cease to be a Governor if he or she:

1. is disqualified from acting as a Governor by section 178 of the Charities Act 2011; or
2. 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
3. gives not less than one month's notice in writing of his or her intention to resign (but only if at least 5 Governors will remain in office when the notice of resignation is to take effect).
4. 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.
5. **Recording of meetings**

The Governors must keep a proper record of their meetings.

1. Not used
2. Not used

POWERS OF GOVERNORS.

1. (1) Subject and according to the provisions of this Act and of the statutes for the time being in force the Governors shall manage all the estates lands hereditaments and property of the said foundations and administer the revenues and income of the said foundations and shall have power to demise for any term of years sell exchange mortgage or otherwise dispose of all or any part of the lands tenements or hereditaments of the said foundations and to enter into any contract preliminary to making any such lease sale exchange or other disposition for such considerations and generally upon such terms and conditions as they shall think fit and to accept a surrender of any lease and to raise or borrow money for any of the purposes of the said foundations and generally to exercise all or any of the powers exercisable by a tenant for life under the Settled Land Acts or otherwise and to direct that the corporate seal shall be affixed to any deed or instrument necessary to give effect to any lease sale exchange mortgage disposition surrender or contract so resolved to be made or to any deed or instrument necessary and proper to be made for any purpose and generally to settle any question relating to the management or administration of the property of the said foundations.
2. **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 borrow and raise money in any manner for any purpose of the Charity and to secure the repayment of any money borrowed, raised or owing by mortgage, charge, lien or other security howsoever described upon stocks, shares, investments and other personal property and assets.
4. Power to borrow to invest borrowed funds in any manner permitted by law.
5. Power to delegate (including to sub-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, provided always that:
	1. (i) at least one of the persons on any committee must be a Governor;
	2. (ii) the Governors must exercise reasonable supervision over the committee and the committee must promptly report their acts and proceedings to the Governors; and
	3. (iii) the committee must not incur expenditure on behalf of the Charity except in accordance with a budget previously agreed by the Governors.
6. Power to establish an advisory group comprising individuals who, in the opinion of the Governors, have relevant experience in dealing with issues affecting the Charity. An advisory group shall have none of the rights or powers exercisable by a committee of the Board other than a power to advise the Board on any matters which have been referred to it by the Board. The members of an advisory group shall not, unless they are also Governors, have the duties and responsibilities of charity trustees. Subject to any terms and conditions expressly imposed by the Governors, the proceedings of any advisory group shall be governed by such of this Act and any Standing Orders made by the Governors as regulate the proceedings of the Governors so far as they are capable of applying.
7. Power to co-operate with other charities, voluntary bodies and statutory authorities. The Governors may exchange information and advice with them.
8. Power to make donations to charities whose objects are similar to those of the Charity.
9. Power to make donations to any charity established in connection with one or more of the Schools of the Foundation.
10. Power to maintain an archive of documentation and other material relating to the Charity or any of the Schools of the Foundation.
11. 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.)
12. 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).
13. 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:
14. 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);
15. the management and administration of the Charity and its property including (but not limited to):
16. the summoning and conduct of, voting at, and setting a quorum for, meetings;
17. the appointment of a Bailiff, Chair and other officers;
18. the employment of staff;
19. 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 5 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.
3. Power by Standing Order to relocate or re-site any of the Schools of the Foundation.
4. Power by Standing Order to enlarge, alter, or re-build any of the Schools of the Foundation.
5. Power by Statute to close any of the Schools of the Foundation or to open a new School of the Foundation.
6. Power by Statute to designate (or to revoke the designation of) any school as a School of the Foundation.
7. Power to make Standing Orders (which must be consistent with the governing document) for:
8. the award of grants and prizes;
9. the method of selecting candidates for benefit; and
10. the terms of the award.
11. 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.
12. 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.
13. Power to do anything else within the law which promotes or helps to promote the object of the Charity.
14. **Combined pools**
15. 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.
16. 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.
17. 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.
18. 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 2011 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 2011.
19. **Additions to funds.**
20. 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.
21. 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.
22. **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.

1. Not used
2. Not used

VISITOR BOARD OF EDUCATION.

1. All rights and powers transferred to or vested in Her Majesty as visitor of the said foundations under the Scheme of 1883 are hereby reserved to Her Majesty and shall be exercised only through and by the Board of Education.
2. Not used
3. Not used
4. Amendment of this Act
5. 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 69 of the Charities Act 2011.
6. In this Section 'Court' has the same meaning as in the Charities Act 2011.

OBJECT.

1. **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:

1. the provision of a site or sites for any School of the Foundation;
2. the support and/or maintenance and/or conduct of Schools of the Foundation including:
3. 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;

1. 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;
2. 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.
3. The Governors shall keep a register of all Schools of the Foundation (including those schools that are Schools of the Foundation on 7 March 2012).

CHARITY PROPERTY.

1. **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.

1. **Use of income and capital**

(1) The Governors must firstly apply:

1. the Charity's income; and
2. if the Governors think fit, expendable endowment; and
3. 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).

1. After payment of these costs, the Governors must apply the remaining income in furthering the object(s) of the Charity.
2. The Governors may also apply for the object(s) of the Charity:
3. expendable endowment; and
4. permanent endowment, but only:
5. where it is permitted in accordance with, and subject to the conditions in, sections 280 to 284 of the Charities Act 2011 (power of unincorporated charities to spend capital); or
6. on such terms, including for the replacement of the amount spent, as the Charity Commission may approve in advance.

30-59 inclusive: Not used

FURTHER ENDOWMENTS.

60. The Governors may receive and hold any additional donations endowments or property for the general purposes of the said foundations They may also receive and hold donations endowments or property for any special objects connected with the said foundations which shall not be inconsistent with or calculated to impede the due working of the provisions of this Act.

61-67 inclusive: Not used

MISCELLANEOUS.

1. Nothing in this Act shall affect the position of any master lecturer mistress teacher or officer of the said foundations who was appointed before the commencement of this Act but every such person shall hold office by the same tenure and on and subject to the same terms and conditions as to remuneration and otherwise in all respects as if this Act had not been passed.
2. Not used
3. From and after the commencement of this Act the Acts of Parliament and schemes specified in the First Schedule to this Act shall be repealed and cancelled and the persons acting in the execution of the same shall be indemnified by virtue of this Act in respect of all acts and things done by them or any of them in the execution in good faith by them of the provisions of the same Such repeal as aforesaid shall not be deemed or taken to revive any right power or jurisdiction of the ordinary or of any other body or person as visitor of the said foundations.
4. Nothing in this Act contained shall take away abridge or diminish the inherent jurisdiction of the Chancery Division of the High Court over trustees.
5. The costs charges and expenses connected with and incidental to the preparation and passing of this Act shall be defrayed out of the income of the property of the said foundations or if the Governors shall so determine shall be paid in whole or in part out of money representing capital or to be raised by the Governors for the purpose.