

Constitution

Adopted on the 2nd March 2009

PART 1

1. Adoption of the Constitution

The association and its property will be administered and managed in accordance with the provisions in Parts 1 and 2 of this constitution.

2. The Name

The association's name is **Toll Bar Primary School Fund** and in this document it is called the Charity.

3. The Objects

The Charity's objects are to advance the education of the pupils of Toll Bar Primary School by providing facilities and equipment over and above what the local education authority provides for the school.

4. Application of the Income and Property

(1) The income and property of the Charity shall be applied solely towards the promotion of the Objects.

(2) A Trustee may pay out of, or be reimbursed from, the property of the Charity reasonable expenses properly incurred by him or her when acting on behalf of the Charity.

(3) None of the income or property of the Charity may be paid or transferred directly or indirectly by way of dividend bonus or otherwise by way of profit to any member of the Charity. This does not prevent:

(a) a member who is not also a Trustee from receiving reasonable and proper remuneration for any goods or services supplied to the Charity;

(b) a Trustee from:

- (i) buying goods or services from the Charity upon the same terms as other members or members of the public;
- (ii) receiving a benefit from the Charity in the capacity of a beneficiary of the Charity, provided that the Trustees comply with the provisions of sub clause (6) of this clause, or as a member of the Charity and upon the same terms as other members;

(c) the purchase of indemnity insurance for the Trustees against any liability that by virtue of any rule of law would otherwise attach to a Trustee or other officer in respect of any negligence, default breach of

duty or breach of trust of which he or she may be guilty in relation to the Charity but excluding:

- (i) fines
 - (ii) costs of unsuccessfully defending criminal prosecutions for offences arising out of the fraud, dishonesty or wilful or reckless misconduct of the Trustee or other officer;
 - (iii) liabilities to the Charity that result from conduct that the Trustee or other officer knew or ought to have known was not in the best interests of the Charity or in respect of which person concerned did not care whether that conduct was in the best interests of the Charity or not.
- (4) No Trustee may be paid or receive any other benefit for being a Trustee
- (5) A Trustee may;
- (a) sell goods, services to the Charity
 - (b) be employed by or receive any remuneration from the Charity
 - (c) receive any other financial benefit from the Charity
- if
- (d) he or she is not prevented by sub-clause (4) of this clause; and
 - (e) the benefit is permitted by sub-clause (3) of this clause; or
 - (f) the benefit is authorised by the Trustees in accordance with the conditions in sub-clause (6) of this clause.
- (6) (a) If it is proposed that a Trustee should receive a benefit from the Charity that is not already permitted under sub-clause (3) of this clause, he or she must:
- (i) declare his or her interest in the proposal;
 - (ii) be absent from that part of the meeting at which the proposal is discussed and take no part in any discussion of it;
 - (iii) not be counted in determining whether the meeting is quorate
 - (iv) not vote on the proposal
- (b) In cases covered by sub-clause (5) of this clause, those Trustees who do not stand to receive the proposed benefit must be satisfied that it is in the interests of the Charity to contract with or employ that Trustee rather than with someone who is not a Trustee and they must record the reason for their decision in the minutes. In reaching that decision the Trustees must balance the advantage of contracting with or employing a Trustee against the disadvantage of doing so (especially the loss of the Trustee's services as a result of dealing with the Trustee's conflict of interest).
- (c) The Trustees may only authorise a transaction falling with paragraphs 5 (a) – (c) of this clause if the Trustee body comprises a majority of Trustees who have not received any such benefit.
- (d) If the Trustees fail to follow this procedure, the resolution to confer a benefit upon the Trustee will be void and the Trustee must repay the Charity the value of any benefit received by the Trustee from the Charity.

- (7) A Trustee must absent himself or herself from any discussions of the Trustees in which it is possible that a conflict will arise between his or her duty to act solely in the interests of the Charity and any personal interest (including but not limited to any personal financial interest) and take no part in the voting upon the matter.
- (8) In this Clause (4), 'Trustee' shall include any person or company connected with the Trustee.

5. Dissolution

- (1) If the members resolve to dissolve the Charity the Trustees will remain in office as Charity Trustees and be responsible for winding up the affairs of the Charity in accordance with this clause.
- (2) The Trustees must collect in all the assets of the Charity and must pay or make provision for all the liabilities of the Charity.
- (3) The Trustees must apply any remaining property or money:
 - (a) directly for the objects
 - (b) by transfer to any Charity or charities for purposes the same as or similar to the Charity
 - (c) in such other manner as the Charity Commission for England and Wales ("The Commission") may approve in writing in advance.
- (4) The members may pass a resolution before or at the same time as the resolution to dissolve the Charity specifying the manner in which the Trustees are to apply the remaining property or assets of the Charity and the Trustees must comply with the resolution if it is consistent with paragraphs (a) –(c) inclusive in sub-clause (3) above.
- (5) In no circumstances shall the net assets of the Charity be paid to or distributed among members of the Charity (except to a member that is itself a Charity).
- (6) The Trustees must notify the Commission promptly that the Charity has been dissolved. If the Trustees are obliged to send the Charity's accounts to the Commission for the accounting period which ended before its dissolution, they must send the Commission the Charity's final accounts.

6. Amendments

- (1) The Charity may amend any provision contained in Part 1 of this Constitution provided that:
 - (a) no amendment may be made that would have the effect of making the Charity cease to be a Charity at law;
 - (b) no amendment may be made to alter the Objects if the change would not be within the reasonable contemplation of the members of or donors to the Charity;
 - (c) no amendment may be made to clause 4 without the prior written consent of the commission;

- (d) any resolution to amend a provision of Part 1 of this constitution is passed by not less than two thirds of the members present and voting at a general meeting.
- (2) Any provision contained in Part 2 of the constitution may be amended, provided that any such amendment is made by resolution passed by a simple majority of the members present and voting at a general meeting.
- (3) A copy of any resolution amending this constitution shall be sent to the Commission within 21 days of it being passed.

PART 2

7. Membership

- Membership of the Finance Committee shall be open to all governors of Toll Bar Primary School
- Membership of the Governing Body is open to individuals over the age of 18 (subject to vacancies as either parent or community member arising)
- Group to achieve its aims and be willing to abide by the rules of the Group.
- Every member shall have one vote at General Meetings
- The membership of any member may be terminated for good reason by the Governors.
- Membership is not transferable to anyone else
- The Trustees must keep a register of names and addresses of the members which is available to any member upon request.

8. Termination of Membership

Membership is terminated if;

- (1) The member dies or, the organisation ceases to exist
- (2) The member resigns by written notice to the organisation;

9. General Meetings

- (1) The Charity must hold a general meeting within 12 months of the date of the adoption of this constitution.
- (2) An annual general meeting must be held in each subsequent year and not more than 15 months may elapse between successive annual general meetings
- (3) The Trustees may call a special general meeting at any time.
- (4) The Trustees must call a special general meeting if requested to do so in writing by at least 10 members or one tenth of the membership, which ever is the greater. The request must state the nature of the business that is to be discussed. If the Trustees fail to hold the meeting within 28 days of the request, the members may proceed to call a special general meeting but in doing so they must comply with the provisions of this Constitution.

10. Notice

- (1) The minimum period of notice required to hold an general meeting of the Charity is 7 clear days from the date on which the notice is deemed to have been given.
- (2) The notice must specify the date, time and place of the meeting and the general nature of the business to be transacted. If the meeting is to be an annual general meeting, the notice must say so.
- (3) The notice must be given to all the members and to the Trustees.

11. Quorum

- (1) No business shall be transacted at any general meeting unless a quorum is present
- (2) A quorum is 4 members entitled to vote upon the business to be conducted at the meeting.
- (3) If quorum is not met, the Trustees must re-convene the meeting and must give at least 7 clear days notice of the re-convened meeting stating the date, time and place of the meeting.
- (4) If no quorum is present at the re-convened meeting within 15 minutes of the time specified for the start of the meeting the members present at that time shall constitute the quorum for that meeting

12. Chair

- (1) General meeting shall be chaired by the person who has been elected as Chair.
- (2) If there is no such person or he or she is not present within 15 minutes of the time appointed for the meeting a Trustee nominated by the Trustees shall chair the meeting.
- (3) If there is only one Trustee present and willing to act, he or she shall chair the meeting
- (4) If no Trustee is present and willing to chair the meeting within 15 minutes after the time appointed for holding it, the members present and entitled to vote must choose one of their number to chair the meeting.

13. Adjournments

- (1) The members present at a meeting may resolve that the meeting shall be adjourned.
- (2) The person who is chairing the meeting must decide the date, time and place at which meeting is to be re-convened unless those details are specified in the resolution.

- (3) No business shall be conducted at an adjourned meeting unless it could properly have been conducted at the meeting had the adjournment not taken place.
- (4) If a meeting is adjourned by a resolution of the members for more than 7 days; at least 7 clear days notice shall be given of the re-convened meeting stating the date, time and place of the meeting

14. Votes

- (1) Each member shall have one vote but if there is an equality of votes the person who is chairing the meeting shall have a casting vote in addition to any other vote he or she may have.
- (2) A resolution in writing signed by each member who would have been entitled to vote upon it had it been proposed at a general meeting shall be effective.

15. Officers and Trustees

- (1) The Charity and its property shall be managed and administered by a committee comprising of the Trustees in accordance with this Constitution.
- (2) The Charity shall have the following Officers:
 - A Chair
 - A Secretary
 - A Treasurer
- (3) A Trustee must be a member of the Charity.
- (4) No one may be appointed a Trustee if he or she would be disqualified from acting under the provisions of Clause 19.
- (5) The number of Trustees shall be not less than 3 but shall not be subject to any maximum number.
- (6) The first Trustees (including Officers) shall be those persons elected as Trustees and Officers at the meeting at which this constitution is adopted.
- (7) A Trustee may not appoint anyone to act on his or her behalf at meeting of the Trustees.

16. Appointment of Trustees

- (1) The Charity in general meeting shall elect the Officers and the other Trustees.
- (2) The Trustees may appoint any person who is willing to act as a Trustee. Subject to sub-clause 5(b) of this clause, they may also appoint Trustees to act as officers

- (3) Each of the Trustees shall retire with effect from the conclusion of the annual general meeting next after his or her appointment but shall be eligible for re-election at that annual general meeting.
- (4) No one may be elected a Trustee or an Officer at any annual general meeting unless prior to the meeting the Charity is given a notice that:
 - (a) is signed by a member entitled to vote at the meeting
 - (b) states the member's intention to propose the appointment of a person as a Trustee or as an Officer;
 - (c) is signed by the person who is proposed to show his or her willingness to be appointed.
- (5)
 - (a) The appointment of a Trustee, whether by the Charity in general meeting or by the other Trustees, must not cause the number of Trustees to exceed any number fixed in accordance with this constitution as the maximum number of Trustees.
 - (b) The Trustees may not appoint a person to be an Officer if a person has already been elected or appointed to that office and has not vacated the office.

15. Powers of Trustees

- (1) The Trustees must manage the business of the Charity and have the following powers in order to further the Objects (but not for any other purpose);
 - (a) To raise funds. In doing so, the Trustees must not undertake any substantial permanent trading activity and must comply with any relevant statutory regulations.
 - (b) To co-operate with other charities, voluntary bodies and statutory authorities and to exchange information and advice with them
 - (c) To establish or support any charitable trusts, associations or institutions formed for any of the charitable purposes included in the Objects.
 - (d) To acquire or support any charitable trusts, associations or institutions formed for any of the charitable purposes included in the Objects;
 - (e) To obtain and pay for such goods and services as are necessary for carrying out the work of the Charity;
 - (f) To open and operate such bank and other accounts as the Trustees consider necessary and to invest funds and to delegate the management of funds in the same manner and subject to the same conditions as the Trustees of a trust are permitted to do so by the Trustee Act 2000;
 - (g) To do all such other lawful things as are necessary for the achievement of the Objects;
- (2) No alteration of this constitution or any special resolution shall have retrospective effect to invalidate any prior act of the Trustees.

- (3) Any meeting of Trustees at which a quorum is present at the time the relevant decision is made may exercise all the powers exercisable by the Trustees.

16. Disqualification and Removal of Trustees

A Trustee shall cease to hold office if he or she:

- (1) is disqualified for acting as a Trustee by virtue of section 72 of the Charities Act 1993;
- (2) ceases to be a member of the Charity;
- (3) becomes incapable by reason of mental disorder, illness or injury of managing and administering his or her own affairs;
- (4) resigns as a Trustee by notice to the Charity (but only if at least 2 Trustees will remain in office when the notice of resignation is to take effect);
- (5) is absent without the permission of the Trustees from all their meetings held within a period of 6 consecutive months and the Trustees resolve that his or her office be vacated.

17. Proceedings of Trustees

- (1) The Trustees may regulate their proceedings as they think fit, subject to the provisions of this constitution.
- (2) Any Trustee may call a meeting of the Trustees.
- (3) The secretary must call a meeting of the Trustees if requested to do so by a Trustee.
- (4) Questions arising at a meeting must be decided by a majority of votes
- (5) In the case of an equality of votes, the person who chairs the meeting shall have a second or casting vote.
- (6) No decision may be made by a meeting of the Trustees unless a quorum is present at the time the decision is purported to be made.
- (7) The quorum shall be 2 or the number nearest to one third of the total number of Trustees, whichever is the greater or such larger number as may be decided from time to time by the Trustees.
- (8) A Trustee shall not be counted in the quorum present when any decision is made about a matter upon which that Trustee is not entitled to vote.
- (9) If the number of Trustees is less than the number fixed as the quorum, the continuing Trustees or Trustee may act only for the purpose of filling vacancies or of calling a general meeting.
- (10) The person elected as Chair shall chair meetings of the Trustees
- (11) If the Chair is unwilling to preside or is not present within 10 minutes after the time appointed for the meeting, the Trustees present may appoint one of their number to chair that meeting.

18. Minutes

The Trustees must keep minutes of all:

- (1) Appointments of Officers and Trustees made by the Trustees;
- (2) Proceedings at meetings of the Charity
- (3) Meetings of the Trustees and committees of Trustees including:
 - The names of the Trustees present at the meeting

- The decisions made at the meetings; and
- Where appropriate the reasons for the decisions

19. Annual Report and Return and Accounts

- (1) The Trustees must comply with their obligations under the Charities Act 1993 with regard to:
 - (a) the keeping of accounting records for the Charity
 - (b) the preparation of annual statements of account for the Charity
 - (c) the transmission of the statements of account to the Charity
 - (d) the preparation of an Annual Report and its transmission to the Commission
 - (e) the preparation of an Annual Return and its transmission to the Commission
- (2) Accounts must be prepared in accordance with the provisions of any Statement of Recommended Practice issued by the Commission, unless the Trustees are required to prepare accounts in accordance with the provisions of such a Statement prepared by another body.

20. Registered Particulars

The Trustees must notify the Commission promptly of any changes to the Charity's entry on the Central Register of Charities.

21. Property

The Trustees must ensure the title to all investments held by the Charity.

22. Insurance

The Trustees must ensure that equipment belonging to the Charity is insured.