

WEST KIRBY EDUCATIONAL TRUST

A charity changing children's lives

**COMPANIES ACT 2006
COMPANY LIMITED BY GUARANTEE
ARTICLES**

OF ASSOCIATION

-OF-

WEST KIRBY EDUCATIONAL TRUST

DATE OF INCORPORATION: 23 AUGUST 1924

**COMPANY NUMBER: 00200018
CHARITY NUMBER: 207790**

Adopted by special resolution dated 15 October 2024

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1. Objects

- 1.1 The Charity's objects ("the Objects") are the education and care of children and young people with complex special needs by (but without prejudice to the generality of the foregoing):
- 1.1.1 the operation of schools and colleges providing tailored education to children and young people who have a range of complex social communication difficulties and associated learning needs including social, emotional and behavioural difficulties, Autistic Spectrum Disorders and ADHD;
 - 1.1.2 the provision of care for children and young people who have a range of complex social communication difficulties and associated learning needs;
 - 1.1.3 the provision of clinical services including occupational therapy, speech and language therapy and therapeutic support services.
- 1.2 This provision may be amended by special resolution but only with the prior written consent of the Commission.

2. Powers

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

- 2.1 to provide advice or information;
- 2.2 to carry out research;
- 2.3 to co-operate with other bodies;
- 2.4 to support, administer or set up other charities;
- 2.5 to accept gifts and to raise funds (but not by means of taxable trading);
- 2.6 to borrow money;
- 2.7 to give security for loans or other obligations (but only in accordance with the restrictions imposed by the Charities Act);
- 2.8 to acquire or hire property of any kind;
- 2.9 to let or dispose of property of any kind (but only in accordance with the restrictions imposed by the Charities Act);
- 2.10 to set aside funds for special purposes or as reserves against future expenditure;

- 2.11 to deposit or invest its funds in any manner (but to invest only after obtaining such advice from a financial expert as the Trustees consider necessary and having regard to the suitability of investments and the need for diversification);
- 2.12 to delegate the management of investments to a financial expert, but only on terms that:
 - 2.12.1 the investment policy is set down in writing for the financial expert by the Trustees;
 - 2.12.2 timely reports of all transactions are provided to the Trustees;
 - 2.12.3 the performance of the investments is reviewed regularly with the Trustees;
 - 2.12.4 the Trustees are entitled to cancel the delegation arrangement at any time;
 - 2.12.5 the investment policy and the delegation arrangement are reviewed at least once a year;
 - 2.12.6 all payments due to the financial expert are on a scale or at a level which is agreed in advance and are notified promptly to the Trustees on receipt; and
 - 2.12.7 the financial expert must not do anything outside the powers of the Charity;
- 2.13 to arrange for investments or other property of the Charity to be held in the name of a nominee company acting under the direction of the Trustees or controlled by a financial expert acting under their instructions, and to pay any reasonable fee required;
- 2.14 to deposit documents and physical assets with any company registered or having a place of business in England or Wales as custodian, and to pay any reasonable fee required;
- 2.15 to insure the property of the Charity against any foreseeable risk and take out other insurance policies to protect the Charity when required;
- 2.16 subject to Article 6.3, to employ paid or unpaid agents, staff or advisers;
- 2.17 to enter into contracts to provide services to or on behalf of other bodies;
- 2.18 to establish or acquire subsidiary companies;
- 2.19 to do anything else within the law which promotes or helps to promote the Objects.

3. Trustee Appointment and Removal

- 3.1 The number of Trustees shall not be subject to any maximum but shall not be less than four (including the ex-officio Trustee (if any)).
- 3.2 The CEO shall automatically, by virtue of holding that office (“ex-officio”) be a Trustee. If unwilling to act as a Trustee, the CEO may provide notice in writing to the Trustees or may resign under Article 3.6.4. The office of ex-officio Trustee will then remain vacant until the CEO ceases to hold office.
- 3.3 With the exception of the ex-officio Trustee, Trustees shall be appointed by resolution of the Trustees for a period of three years, at the end of which they shall retire.
- 3.4 Subject to Article 3.5, a Trustee shall be eligible for re-appointment by the Trustees for up to a further three terms, each of three years.
- 3.5 With the exception of the ex-officio Trustee, no Trustee shall serve for more than twelve consecutive years, unless, in exceptional circumstances, the Trustees consider it would be in the best interests of the Charity for a Trustee to continue to serve beyond that period and that Trustee is reappointed by a resolution passed by at least 75% of the Trustees.

- 3.6 A Trustee's term of office as such automatically terminates if he / she:
- 3.6.1 is disqualified under the Charities Act from acting as a charity trustee or otherwise disqualified under the Companies Act;
 - 3.6.2 in the written opinion of a registered medical practitioner who is treating the Trustee, is incapable, whether mentally or physically, of acting as a Trustee and may remain so for more than three months;
 - 3.6.3 is absent without permission from three consecutive meetings of the Trustees and is asked by a majority of the other Trustees to resign;
 - 3.6.4 resigns by written notice to the Trustees (but only if at least three Trustees will remain in office);
 - 3.6.5 [with the exception of the ex-officio Trustee], ceases to be a Member of the Charity;
 - 3.6.6 (in the case of the CEO) is suspended from his / her duties; or
 - 3.6.7 is removed by resolution passed by the Trustees present and voting at a meeting of the Trustees on the basis that it is in the best interests of the Charity for the Trustee concerned to be removed but only after the meeting has invited the written views of the Trustee concerned and considered the matter in the light of any such views.
- 3.7 The Trustees may act notwithstanding any vacancy in their number provided always that if the number of Trustees shall at any time be less than the minimum number set out in these Articles, it shall be lawful for the continuing Trustees to act for the purpose of filling vacancies or of calling a general meeting but not for any other purpose.
- 3.8 A technical defect in the appointment of a Trustee of which the Trustees are unaware at the time does not invalidate decisions taken at a meeting.

4. Trustees' proceedings

- 4.1 The Trustees must hold at least three meetings each year.
- 4.2 A quorum at a meeting of the Trustees is at least three or one third of the Trustees in office, whichever is the greater.
- 4.3 A meeting of the Trustees may be held either in person or by suitable electronic means agreed by the Trustees in which all participants may communicate with all the other participants but at least one meeting in each year must be held in person.
- 4.4 The Chair or (if the Chair is unable or unwilling to do so) another Trustee chosen by the Trustees present presides at each meeting.
- 4.5 Any issue may be determined by a simple majority of the votes cast at a meeting, but a resolution in writing agreed by 75% of the Trustees entitled to receive notice of a meeting (other than any Conflicted Trustee who has not been authorised to vote) is as valid as a resolution passed at a meeting. For this purpose, the resolution may be contained in more than one document.
- 4.6 Every Trustee has one vote on each issue but, in case of equality of votes, the chair of the meeting has a second or casting vote.
- 4.7 A procedural defect of which the Trustees are unaware at the time does not invalidate decisions taken at a meeting.

5. Trustees' powers

- 5.1 Subject to the provisions of the Companies Act, the Articles and any special resolution, the Trustees shall be responsible for the management of the Charity's

business and may exercise all the powers of the Charity for that purpose, including, but not limited to, the following:

- 5.1.1 To appoint (and remove) any person (who may be a Trustee) to act as Secretary in accordance with the Companies Act.
- 5.1.2 To appoint (and remove) a Chair, Vice-Chair, a Treasurer and other honorary officers from among their number.
- 5.1.3 The Chair and Vice-Chair shall be appointed by resolution of the Trustees for a period of three years, at the end of which they shall retire.
- 5.2 Subject to Article 3.5 and 5.4, the Chair shall be eligible for re-appointment to such role by the Trustees for up to a further one term of three years.
- 5.3 Subject to Article 3.5 and 5.5, the Vice Chair shall be eligible for re-appointment to such role by the Trustees for up to a further one term of three years.
- 5.4 The Chair shall not hold such position for more than six consecutive years.
- 5.5 The Vice Chair shall not hold such position for more than six consecutive years.
- 5.6 To appoint (and remove) any person to act as a Patron of the Charity;
- 5.6.1 To delegate any of their functions to committees (including, but not limited to, School Boards) consisting of two or more individuals appointed by them. At least one member of every committee must be a Trustee and all proceedings of committees must be reported promptly to the Trustees.
- 5.6.2 To make rules or bye laws consistent with the Articles and the Companies Act to govern (without limitation):
 - a) any process relating to the nomination, appointment and removal of Trustees;
 - b) proceedings of the Trustees and proceedings of committees, including HR, Finance and Care committees and the School Boards;
 - c) terms of reference for each School Board;
 - d) the proceedings and administration of the Charity; and
 - e) any procedures for the resolution of disputes or differences within the Charity.

6. Benefits and Conflicts

- 6.1 The property and funds of the Charity must be used only for promoting the Objects and do not belong to the Members but:
 - 6.1.1 Members, Trustees and Connected Persons may be paid interest at a reasonable rate on money lent to the Charity;
 - 6.1.2 Members, Trustees and Connected Persons may be paid a reasonable rent or hiring fee for property let or hired to the Charity; and
 - 6.1.3 Members, Trustees and Connected Persons may receive charitable benefits on the same terms as any other members of the beneficial class.
- 6.2 A Trustee must not receive any payment of money or other material benefit (whether directly or indirectly) from the Charity except:
 - 6.2.1 as mentioned in Articles 6.1 or 6.3;
 - 6.2.2 reimbursement of reasonable out-of-pocket expenses (including hotel and travel costs) actually incurred in running the Charity;
 - 6.2.3 the benefit of indemnity insurance as permitted by the Charities Act;

- 6.2.4 an indemnity in respect of any liabilities properly incurred in running the Charity (including the costs of a successful defence to criminal proceedings);
 - 6.2.5 in exceptional cases, other payments or benefits (but only with the written consent of the Commission in advance and where required by the Companies Act the approval or affirmation of the Members).
- 6.3 Save for in the case of the CEO, no Trustee or Connected Person may be employed by the Charity except in accordance with Article 6.2.5, but any Trustee or Connected Person may enter into a written contract with the Charity, as permitted by the Charities Act, to supply goods or services in return for a payment or other material benefit but only if:
- 6.3.1 the goods or services are actually required by the Charity, and the Trustees decide that it is in the best interests of the Charity to enter into such a contract;
 - 6.3.2 the nature and level of the remuneration is no more than is reasonable in relation to the value of the goods or services and is set in accordance with the procedure in Article 6.4; and
 - 6.3.3 fewer than half of the Trustees are subject to such a contract in any financial year.
- 6.4 Any Trustee who becomes a Conflicted Trustee in relation to any matter must:
- 6.4.1 declare the nature and extent of his / her interest before discussion begins on the matter;
 - 6.4.2 withdraw from the meeting for that item after providing any information requested by the Trustees;
 - 6.4.3 not be counted in the quorum for that part of the meeting; and
 - 6.4.4 be absent during the vote and have no vote on the matter.
- 6.5 If a conflict of interest arises for a Trustee because of a duty of loyalty owed to another organisation or person and the conflict is not authorised by virtue of any other provisions in the Articles, the unconflicted Trustees may authorise such a conflict of interests where the following conditions apply:
- 6.5.1 the Conflicted Trustee is absent from the part of the meeting at which there is discussion of any arrangement or transaction affecting that other organisation or person;
 - 6.5.2 the Conflicted Trustee does not vote on any such matter and is not to be counted when considering whether a quorum of Trustees is present at the meeting; and
 - 6.5.3 unconflicted Trustees consider it is in the interests of the Charity to authorise the conflict of interests in the circumstances applying.
- 6.6 In this Article 6.5 a conflict of interests arising because of a duty of loyalty owed to another organisation or person only refers to such a conflict which does not involve a direct or indirect benefit of any nature to a Trustee or to a connected person.
- 6.7 This provision may be amended by special resolution but, where the result would be to permit any material benefit to a Trustee or Connected Person, only with the prior written consent of the Commission.

7. Records and Accounts

- 7.1 The Trustees must comply with the requirements of the Companies Act and of the Charities Act as to keeping records, the audit or independent examination of accounts and the preparation and transmission to the Registrar of Companies and the Commission of information required by law including:

- 7.1.1 annual returns;
 - 7.1.2 annual reports; and
 - 7.1.3 annual statements of account.
- 7.2 The Trustees must also keep records of:
- 7.2.1 all proceedings at meetings of the Trustees;
 - 7.2.2 all resolutions in writing;
 - 7.2.3 all reports of committees; and
 - 7.2.4 all professional advice obtained.
- 7.3 Accounting records relating to the Charity must be made available for inspection by any Trustee at any time during normal office hours.
- 7.4 A copy of the Charity's Articles and latest available statement of account must be supplied on request to any Trustee. Copies of the latest accounts must also be supplied in accordance with the Charities Act to any other person who makes a written request and pays the Charity's reasonable costs.

8. Membership

- 8.1 The Charity must maintain a Register of Members.
- 8.2 The Trustees shall be the only Members. Membership is automatic upon a person becoming a Trustee and terminates in the event of a person ceasing to be a Trustee.
- 8.3 It is the duty of each Member to exercise his or her powers as a Member in the way he or she decides in good faith would be most likely to further the purposes of the Charity.
- 8.4 Membership is not transferable.
- 8.5 The Trustees may recognise one or more classes of supporters who are not Members (but who may nevertheless be termed 'members') and set out their respective rights and obligations.

9. General Meetings

- 9.1 Members are entitled to attend general meetings in person, by proxy (but only if the appointment of a proxy is in writing and notified to the Charity before the commencement of the meeting), or by such suitable electronic means as the Members may decide in which all participants are able to communicate with each other.
- 9.2 Where a general meeting is held by electronic means, the place of the meeting shall be the place where the chair of the meeting is situated.
- 9.3 General meetings are called on at least 14 clear days' written notice indicating the business to be discussed and (if a special resolution is to be proposed) setting out the terms of the proposed special resolution.
- 9.4 There is a quorum at a general meeting if the number of Members present in person, by proxy or by suitable electronic means is at least three or one third of the total number of Members, whichever is the greater.
- 9.5 The Chair or (if the Chair is unable or unwilling to do so) another Trustee chosen by the Trustees present presides at each meeting.
- 9.6 Except where otherwise provided by the Articles or the Companies Act, every issue

is decided by ordinary resolution.

- 9.7 Every Member attending the meeting has one vote on each issue.
- 9.8 Except where otherwise provided by the Articles or the Companies Act, a written resolution (whether an ordinary or a special resolution) is as valid as an equivalent resolution passed at a general meeting. For this purpose, the written resolution may be set out in more than one document.
- 9.9 A general meeting may be called by the Trustees at any time and must be called within 21 days of a written request from one or more Trustees or in accordance with the Companies Act.
- 9.10 A technical defect in the appointment of a Member of which the Members are unaware at the time does not invalidate a decision taken at a general meeting or a written resolution.

10. Limited Liability

The liability of Members is limited.

11. Guarantee

Every Member of the Charity undertakes to contribute such amount as may be required (not exceeding £10) to the Charity's assets if it should be wound up while he or she is a Member or within one year after he or she ceases to be a Member, for payment of the Charity's debts and liabilities contracted before he or she ceases to be a Member, and the cost, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves.

12. Communications

- 12.1 Notices and other documents to be served on Members or Trustees under the Articles or the Companies Act may be served:
- 12.1.1 by hand;
 - 12.1.2 by post; or
 - 12.1.3 by suitable electronic means.
- 12.2 The only address at which a Member is entitled to receive notices sent by post is an address in the UK shown in the Register of Members.
- 12.3 Any notice given in accordance with these Articles is to be treated for all purposes as having been received:
- 12.3.1 24 hours after being sent by electronic means, or delivered by hand to the relevant address;
 - 12.3.2 two clear days after being sent by first class post to that address;
 - 12.3.3 three clear days after being sent by second class or overseas post to that address;
 - 12.3.4 immediately on being handed to the recipient personally; or, if earlier,
 - 12.3.5 as soon as the recipient acknowledges actual receipt.
- 12.4 A technical defect in service of which the Trustees are unaware at the time does not invalidate decisions taken at a meeting.

13. Dissolution

- 13.1 If the Charity is dissolved, the assets (if any) remaining after providing for all its liabilities must be applied in one or more of the following ways:

- 13.1.1 by transfer to one or more other bodies established for exclusively charitable purposes within, the same as or similar to the Objects;
 - 13.1.2 directly for the Objects or for charitable purposes which are within or similar to the Objects;
 - 13.1.3 in such other manner consistent with charitable status as the Commission approves in writing in advance.
- 13.2 A final report and statement of account must be sent to the Commission.
- 13.3 This provision may be amended by special resolution but only with the prior written consent of the Commission.

14. Interpretation

14.1 The Articles are to be interpreted without reference to the model articles under the Companies Act, which do not apply to the Charity.

14.2 In the Articles, unless the context indicates another meaning:

'the Articles' means the Charity's Articles of Association and Article' refers to a particular Article;

'CEO' means the CEO of the Charity;

'Chair' means the chair of the Trustees;

'the Charity' means the company governed by the Articles;

'the Charities Act' means the Charities Acts 1992 to 2022

'charity trustee' has the meaning prescribed by the Charities Act;

'clear day' does not include the day on which notice is given or the day of the meeting or other event;

'the Commission' means the Charity Commission for England and Wales or any body which replaces it;

'the Companies Act' means the Companies Act 2006;

'Conflicted Trustee' means a Trustee in respect of whom a conflict of interest arises or may reasonably arise because the Conflicted Trustee or a Connected Person is receiving or stands to receive a benefit (other than as authorised by these Articles) from the Charity, or has some separate interest or duty in a matter to be decided, or in relation to information which is confidential to the Charity;

'Connected Person' means, in relation to a Trustee, a person with whom the Trustee shares a common interest such that he/she may reasonably be regarded as benefiting directly or indirectly from any material benefit received by that person, being either a member of the Trustee's family or household or a person or body who is a business associate of the Trustee, and (for the avoidance of doubt) does not include a company with which the Trustee's only connection is an interest consisting of no more than 1% of the voting rights;

'custodian' means a person or body who undertakes safe custody of assets or of documents or records relating to them;

'electronic means' refers to communications addressed to specified individuals by telephone, or email or, in relation to meetings, by telephone conference call or video

conference;

'financial expert' means an individual, company or firm who is authorised to give investment advice under the Financial Services and Markets Act 2000;

'financial year' means the Charity's financial year;

'firm' includes a limited liability partnership;

'indemnity insurance' means insurance against personal liability incurred by any Trustee for an act or omission which is or is alleged to be a breach of trust or breach of duty, unless the act or omission amounts to a criminal offence or the Trustee concerned knew that, or was reckless whether, the act or omission was a breach of trust or breach of duty;

'material benefit' means a benefit, direct or indirect, which may not be financial but has a monetary value;

'Member' and 'Membership' refer to company Membership of the Charity;

'month' means calendar month;

'nominee company' means a corporate body registered or having an established place of business in England and Wales which holds title to property for another;

'ordinary resolution' means a resolution agreed by a simple majority of the Members present and voting at a general meeting or in the case of a written resolution by Members who together hold a simple majority of the voting power;

'the Objects' means the Objects of the Charity as defined in Article 1;

'School Board' means the local governing board of each school, established by the Trustees;

'special resolution' means a resolution of which at least 14 days' notice has been given agreed by a 75% majority of the Members present and voting at a general meeting or in the case of a written resolution by Members who together hold 75% of the voting power;

'taxable trading' means carrying on a trade or business in such manner or on such a scale that some or all of the profits are subject to corporation tax;

'Trustee' means a director of the Charity and 'Trustees' means the directors;

'Vice Chair' means the vice chair of the Trustees;

'written' or 'in writing' refers to a legible document on paper or a document sent by electronic means which is capable of being printed out on paper;

'written resolution' refers to an ordinary or a special resolution which is in writing;

'year' means calendar year.

14.3 Expressions not otherwise defined which are defined in the Companies Act have the same meaning.

14.4 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.