

Kirby Cane Charities

Commissioners' References:

Sealing: 225(S)/99

Case No: 103596

1. Definitions

In this scheme:

"the charity" means the charity created by clause 2 of this scheme.

"the charities" means the charities identified at the beginning of this scheme.

"the area of benefit" means the Parish of Kirby Cane, in the County of Norfolk.

"the parish" means the Parish of Kirby Cane, in the County of Norfolk.

"the trustees" means the trustees of the charity acting under this scheme and "trustee" means one of the trustees.

ADMINISTRATION

2. Administration

The charity is to be administered in accordance with this scheme. This scheme replaces the former trusts of the charities.

3. Name of the charity

The name of the charity is Kirby Cane Charities.

OBJECTS

4. Objects of the charity

The objects of the charity are:

(1) the relief of persons resident in the area of benefit who are in need, hardship or distress;

(a) the trustees may relieve persons in need by:

(i) making grants of money to them; or

(ii) providing or paying for goods, services or facilities for them; or

(iii) making grants of money to other persons or bodies who provide goods, services or facilities to those in need;

(b) in exceptional cases the trustees may decide to assist someone (who is otherwise qualified) who is:

(i) resident outside the area of benefit; or

(ii) only temporarily resident in the area of benefit;

(2) to promote the education of persons under the age of 25 who are in need of financial assistance and are resident in the area of benefit; and

(3) to further the religious and other charitable work of the Church of England in the parish.

POWERS OF THE TRUSTEES

5. Powers of the trustees

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

- (1) Power to sell, lease or otherwise dispose of all or any part of the charity's property. (The trustees must comply with the restrictions on disposal imposed by section 36 of the Charities Act 1993, unless the sale, lease or disposal is excepted from these restrictions by section 36(9)(b) or (c) or section 36(10) of that Act.)
- (2) Power to co-operate with other charities, voluntary bodies and statutory authorities. The trustees may exchange information and advice with them.
- (3) Power to raise funds. (The trustees must not undertake any permanent trading activity for fund-raising purposes.)
- (4) Power to make rules and regulations consistent with this scheme for the management of the charity.

TRUSTEES

6. Trustees

(1) There should be:

5 nominated trustees and 1 co-opted trustee

appointed in accordance with clauses 7 and 8.

(2) The first nominated and co-opted trustees are the persons listed in part 1 of the schedule to this scheme. Subject to clause 12 (Termination of trusteeship) they will hold office for the periods shown in part 1 of the schedule.

7. Nominated trustees

(1) The nominated trustees must be appointed as follows:

3 by Kirby Cane Parish Council; and 2 by the churchwardens of the parish.

(a) 4 years; or

(b) if the appointment is being made to fill a casual vacancy, the unexpired term of the appointee's predecessor.

The appointment will be effective from the later of:

(a) the date of the vacancy; and

(b) the date on which the trustees or their secretary or clerk are informed of the appointment.

The person appointed need not be a member of the relevant appointing body,

8. Co-opted trustees

The appointment of a co-opted trustee must be made by the trustees at a special meeting called under clause 15.

An appointment may, but need not, be made before the date on which the term of office of an existing co-opted trustee comes to an end, to take effect on that date. In these circumstances:

- (a) the appointment may not be made more than 3 months before the date on which the existing co-opted trustee's term of office is due to end; and
 - (b) any co-opted trustee whose term of office is about to come to an end must not vote in favour of their own re-appointment.
- (3) Each appointment must be for a term of 4 years.

9. New trustees

The trustees must give each new trustee, on their first appointment:

- (1) a copy of this scheme and any amendments made to it;
- (2) a copy of the charity's latest report and statement of accounts.

10. Register of trustees

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

11. Trustees not to have a personal interest

Except with the prior written approval of the Commissioners no trustee may:

- (1) receive any benefit in money or in kind from the charity; or
- (2) have a financial interest in the supply of goods or services to the charity; or
- (3) acquire or hold any interest in property of the charity (except in order to hold it as a trustee of the charity).

12. Termination of trusteeship

A trustee will cease to be a trustee if he or she:

- (1) is disqualified from acting as a trustee by section 72 of the Charities Act 1993; or
- (2) is absent without the permission of the trustees from all their meetings held within a period of 6 months and the trustees 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 3 trustees will remain in office when the notice of resignation is to take effect).

OFFICER

13. Chairman

- (1) At their first ordinary meeting in each year the trustees must elect one of their number to be chairman of their meetings.
- (2) The trustees present at a meeting must elect one of their number to chair the meeting if the chairman is not present or the office of chairman is vacant.

MEETINGS OF TRUSTEES

14. Ordinary meetings

- (1) The first meeting after the date of this scheme must be called by Iain Duncan Wright or, if they do not do so within 3 months from that date, by any 2 trustees.
- (2) The trustees must hold at least 4 ordinary meetings in each 12 month period.
- (3) Ordinary meetings require at least 10 days' notice.
- (4) The chairman, or any 2 trustees, may call an ordinary meeting at any time.

15. Special meetings

- (1) The chairman, or any 2 trustees, may call a special meeting at any time.
- (2) Special meetings require at least 4 days' notice, except that meetings to consider:
 - (a) the appointment of a co-opted trustee, or
 - (b) the amendment of this scheme under clause 22,require at least 21 days' notice.
- (3) The notice calling a special meeting must include details of:
 - (a) the business to be transacted at the meeting; and
 - (b) any amendment to be made to this scheme (under clause 22).
- (4) A special meeting may, but need not, be held immediately before or after an ordinary meeting.

16. Quorum

No business may be transacted at a meeting unless at least 3 trustees are present.

17. Voting

- (1) Every matter must be decided by majority decision of the trustees present and voting at a duly convened meeting of the trustees.
- (2) The chairman of the meeting may cast a second or casting vote only if there is a tied vote.

18. Recording of meetings

The trustees must keep a proper record of their meetings.

19. Trustees to act jointly

- (1) Subject to the exception stated in sub-clause (2) of this clause, the trustees must exercise their powers jointly, at properly convened meetings.
- (2) The trustees may appoint a committee of not less than two of their number to deal with applications for assistance from the charity which cannot await the trustees' next meeting. The decisions of such a committee must be reported to the trustees at their next meeting.

20. Transfer of property

The title to the land described in part 2 of the schedule to this scheme is transferred by this scheme to the Official Custodian for Charities in trust for the charity.

21. Use of income and capital

(1) The trustees must firstly apply:

- (a) the charity's income; and
 - (b) if the trustees think fit, expendable endowment; and
 - (c) 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 property.

(2) After payment of these costs, the trustees must apply the remaining income in furthering the objects of the charity, as stated in clauses 4(1), 4(2) and 4(3).

(3) The trustees may also apply for the objects of the charity:

- (a) expendable endowment; and
- (b) permanent endowment, but only on such terms for the replacement of the amount spent as the Commission may approve by order in advance.

AMENDMENT OF SCHEME

22. Amendment of scheme

(1) Subject to the provisions of this clause, the trustees may amend the provisions of this scheme.

(2) Any amendment must be made by a resolution passed at a special meeting of the trustees. The notice of the special meeting must include notice of the resolution, setting out the terms of the amendment proposed.

(3) The trustees must not make any amendment which would

- (a) vary this clause;
- (b) vary clause 1 (Definitions);
- (c) vary clause 4 (Objects);
- (d) vary clause 21 (Use of income and capital);
- (e) confer a power to dissolve the charity;
- (f) enable them to spend permanent endowment of the charity.

(4) The trustees must obtain the prior written approval of the Commissioners before making any amendment which would:

- (a) vary clause 11 of this scheme (Trustees not to have a personal interest);
- (b) vary the name of the charity;
- (c) vary the trustees' powers of investment.

(5) The trustees must:

- (a) promptly send to the Commissioners a copy of any amendment made under this clause; and
- (b) keep a copy of any such amendment with this scheme.

GENERAL PROVISIONS

23. Questions relating to the scheme

The Commissioners may decide any question put to them concerning:

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

APPENDIX A – Policies (Required by Charity Commission by 31/1/2019, agreed by the Trustees on 4/1/2019)

The following policies are required by the Charity Commission before the annual returns are allowed to be submitted. Some of these policies are in the earlier parts of this document.

Risk management

KCC has combined liability insurance.

Lands

All lands are documented with the Land Registry.

The tenancy agreements cover liability, usage, maintenance and renewals, and is managed by Durrants.

Vexatious behaviour

The trustees will not correspond with a person they believe to be vexatious other than the legal minimum (which is to show them the accounts) because of the risk of unwarranted costs that would arise in dealing with the person's subsequent actions.

Investment

Sections 5.1 and 5.3 describe the trustees' power to sell property or raise funds. There should be no conflict of interests.

Safeguarding vulnerable beneficiaries

Protecting personal information

KCC will not disclose the names of persons or groups receiving aid from the Charity. For this reason, because there is a legal obligation to make the Charity's accounts available on request, KCC will only supply a copy of the accounts (when requested) with the names redacted, for a fee of £15.

3rd Party requests donation to a different person/group

Sometimes a person (3rd party) suggests there is someone or a group in need of aid. There is a risk that if KCC approached them without their prior knowledge, the person might be offended or not want KCC help. When a 3rd party requests aid for beneficiaries in Kirby Cane, KCC will either:

- ask the 3rd party to get the recipient to contact KCC
OR
- ask 3rd party to get the recipient's approval for KCC to contact them.

Urgent need

If a person has an urgent need and there is insufficient time to call a special (or general) meeting of the trustees, then the Chairman and Secretary may consider the request and make a donation of up to £100. This will be reported at the next meeting of trustees.

Conflicting interests

Section 11. *Trustees not to have a personal interest* states that trustees should not have a personal interest in the finance or property of the Charity.

If a trustee has a financial or personal interest in a matter discussed at a meeting, the trustee must declare so before any decision is reached.

Complaints handling

Complaints should be sent to the KCC Secretary and will be considered by trustees during their meetings. If an urgent response is required with insufficient time to call a special (or general) meeting of the trustees, then the Chairman or Secretary may respond until a meeting takes place.

Paying staff

KCC does not employ staff.

From time to time, companies are paid to provide services to KCC at a level determined by trustees during meetings:

- Durrants of Beccles provide tenancy management and rent collection for the lands held by KCC
- Allens Cadge & Gilbert (solicitors) provide legal advice
- Allen Boswell Insurance Services provide combined liability insurance.
- BT provides free web site hosting.