



Instrument of Government for the Methodist Independent Schools Trust

1 September 2017

1. INTRODUCTION AND ADMINISTRATION

1.1. Recital of legal relationships

- 1.1.1.** MIST is the governing body appointed by the Methodist Conference to administer and manage each of the Schools in accordance with MIST's Articles of Association, through which arrangements MIST (together with MIST Property Company) has full legal responsibility for the operation of the Schools, the School Property, and all other matters relating to the Schools.
- 1.1.2.** MIST is the Registered Proprietor of each of the Schools.
- 1.1.3.** Pursuant to Article 5.4 of its Articles of Associations, MIST may delegate to School Governors all or any part of its functions in relation to the Schools, in accordance with the MIST Governance Manual.
- 1.1.4.** This Instrument of Government ("*this Instrument*") has been drawn up by MIST in accordance with Article 5.4 of its Articles of Association to reflect the principle that day-to-day management of the Schools is delegated to School Governors, who report to and liaise with MIST so as to enable MIST to maintain suitable oversight of the Schools. MIST's objective is to delegate to School Governors to the fullest extent that is consistent with its legal obligations and its desire to effect best governance practice. More detailed provisions relating to delegation are set out in the MIST Governance Manual.
- 1.1.5. Trust Schools:** MIST is structured under a Unified Corporate Model, in which the original nine Trust Schools (below) are separate elements within MIST. MIST Trustees have the ultimate legal responsibility for these schools. In order to exercise these duties effectively, MIST makes extensive delegation to the School Governing Bodies as set out in the MIST Governance Manual and in the Governance Delegation Summary. But MIST does not divest itself of legal responsibility for any action taken arising from this delegated authority.

The Trust Schools are no longer treated as separately registered charities (and thus their charity registration numbers are obsolete). This reflects the fact that MIST, together with the nine Schools within it, is a single legal entity. School Governors, therefore, govern their Schools in effect as sub-committees of the MIST Trustees. The Schools are, however, separately registered with the Department for Education (with MIST as their Registered Proprietor).

- Culford School (www.culford.co.uk)
- Farringtons School (www.farringtons.org.uk)
- Kent College, Canterbury (www.kentcollege.com)
- Kent College, Pembury (www.kent-college.co.uk)
- Kingsley School (www.kingsleyschoolbideford.co.uk)
- Queen's College, Taunton (www.queenscollege.org.uk)
- Shebbear College (www.shebbearcollege.co.uk)
- Truro School (www.truroschoo.com)
- Woodhouse Grove School (www.woodhousegrove.co.uk)

In line with that, MIST is the contracting party for all contracts (employment, commercial for the supply of goods/services, and parent contracts) albeit the school will continue to enter into contracts signing for the School as part of MIST.

Each School will have an Enterprise Company (or Trading Company) through which non-primary purpose trading activities are managed. Whilst MIST will be the sole corporate member of these companies, any profits that are given to MIST by an Enterprise Company will be ring-fenced for use by the School only

and will not be available for wider use. Similarly, any fundraising conducted by a School (whether in a separate foundation or fundraising charity or carried out directly) will also be ring-fenced for the respective School's use and will not be available for any wider use by MIST or any other Trust School.

Those involved in administering Trust Schools should familiarise themselves with this MIST Governance Manual and take decisions in relation to their School in accordance with the guidance within it.

1.1.6. Acquired Schools: These schools, all acquired since 2012, are separate charities established as companies and have a direct relationship with MIST, which is the sole member of each. MIST supports Acquired Schools and works with them in a similar way to the Trust Schools. However, Acquired Schools do not operate directly under the Instrument of Government or the MIST Governance Manual, as they have their own constitutions. Acquired Schools may become Trust Schools in due course. Acquired Schools are expected to comply with all parts of the MIST Governance Manual that are applicable to the running of the school.

- Abbotsholme School (www.abbotsholme.co.uk) – governed by Abbotsholme School
- Lorenden School (www.lorenden.org.uk) – governed by Kent College Canterbury
- Moorlands School (www.moorlands-school.co.uk) – governed by Woodhouse Grove School
- St Petroc's School (www.stpetrocs.com) – governed by Shebbear College
- Truro High School (www.trurohigh.co.uk) – governed by Truro High School for Girls Trustees

The Acquired School is the contracting party for all contracts (property, employment, commercial for the supply of goods/services, and parent contracts).

The Trustees of the Acquired Prep Schools will be the School Governors of the Sponsoring School. Acquired Schools will remain registered charities, will file accounts and returns with the Charity Commission and Trustees will have full legal responsibilities and protection as a result.

1.1.7. Associated Schools: The Methodist Schools Property Trust is the holding trustee of the Associated Schools whose governing bodies are the managing trustees.

- Ashville College (www.ashville.co.uk)
- Kingswood School (www.kingswood.bath.sch.uk)
- Rydal Penrhos School (www.rydalpenrhos.com)

Associated Schools are run alongside MIST as Methodist Schools that have the support of MIST but are separate from it and are administered in accordance with their own governing schemes.

1.1.8. Land and Buildings: the Methodist Schools Property Company (**MSPC**) is to hold the legal title to each of the school properties of the Trust Schools (subject to a trust that is established to preserve the reserved rights of the Methodist Conference*). MSPC is also the holding Trustee of the Associated Schools' properties. MSPC is a separate charitable company of which MIST is the sole member. MSPC makes available the school property of each Trust School to MIST for each of the Trust Schools and, as holding trustee of the school property, will

need to be the party to any disposal of land of a Trust School. Note: The property of the Acquired Schools remains with those Schools. Any property decision will require the prior approval of MIST Trustees but will be contracted by the Acquired School.

* Under this trust, the Methodist Schools Property Company is to hold the land and buildings of the Trust Schools for the purposes previously set out in the 1903 Trust. The President of the Methodist Conference is entitled to appoint three individuals as Protectors, to whom MSPC must report annually.

- 1.1.9. Affiliated Schools:** MIST encourages contact and sharing of best practice with the other Methodist Independent Schools: The Leys (www.theleys.net), St Faith's (www.stfaiths.co.uk), Queenswood (www.queenswood.org) and Kent College Dubai (www.kentcollege.ae).

2. INTERPRETATION AND DEFINITIONS

2.1. In this Instrument the following terms have the following meanings:

- 2.1.1. "the Conference"** means the annual Conference of the Methodist Church in Great Britain;
- 2.1.2. "Financial Procedures Manual"** means the manual approved from time to time by MIST describing mandatory and advisory financial procedures;
- 2.1.3. "MIST Governance Manual"** means the manual approved from time to time by MIST describing general and corporate governance procedures, incorporating the Financial Procedures Manual and any other supplemental documents relating to the governance of the Schools which MIST may adopt from time to time.;
- 2.1.4. "School Governors"** means in the case of each School a Board of Governors established by MIST pursuant to Article 5.4 and comprising individuals to whom functions and powers are delegated in accordance with Clause 3;
- 2.1.5. "MIST"** means the Methodist Independent Schools Trust, a company limited by guarantee and registered in England and Wales with company number 7649422;
- 2.1.6. "MSPC"** means Methodist Schools Property Company (company number 10834289), being the company controlled by MIST in which the School Property is to be vested;
- 2.1.7. "the Registered Proprietor"** means the responsible body for the Schools as defined by the Education Act 2002;
- 2.1.8. "School Property"** means the legal estate of and title to any real or personal property from time to time vested in (or to be vested in) MSPC;
- 2.1.9. "the Schools"** means the 13 schools named in 1.15 and 1.16 above and any other school from time to time set up or acquired by MIST and "School" means any one of them;
- 2.1.10. "the Standards"** means the standards set out in the Schedule to The Education (Independent Schools Standards) Regulations 2014 (as re-enacted or amended from time to time)
- 2.1.11. "the year"** means the period of twelve months ending on 31 August.

3. POWERS OF MIST AND LOCAL GOVERNORS

3.1. Statement of statutory obligations of MIST as registered proprietor with DfE

- 3.1.1.** Under the Education and Skills Act 2008 the Registered Proprietor of a school is responsible to the Department for Education for ensuring:
- the quality of education provided;
 - the spiritual, moral, social and cultural development of pupils;
 - the welfare, health and safety of pupils (with particular regard to child protection and safeguarding);

- the suitability of staff, supply staff and proprietors;
- the premises of and accommodation at Schools;
- the provision of information by the Schools;
- the manner in which the Schools handle complaints; and
- the quality of leadership in and management of schools.

3.1.2. In accordance with the Standards, which form the focus of school inspections carried out by the Independent Schools Inspectorate, the standard relating to the quality of leadership and management (“Part 8”) is met if the proprietor ensures that persons with leadership and management responsibilities at the school:

- a) demonstrate good skills and knowledge appropriate to their role so that the independent school standards are met consistently;
- b) fulfil their responsibilities effectively so that the independent school standards are met consistently; and
- c) actively promote the well-being of pupils within the meaning of section 10 (2) of the Children Act 2004.

3.1.3. As the Registered Proprietor, MIST is legally responsible for governance in each of the Schools and appoints the School Governors to help discharge these responsibilities subject to defined lines of reporting, responsibility and accountability.

3.2. Legal context and empowering documentation

3.2.1. MIST delegates, under the terms of this Instrument and in accordance with Article 5.4 of its Articles of Association, the performance of certain functions, responsibilities and powers to School Governors, and holds them accountable for proper performance of those matters. MIST will require Schools to produce an annual report that demonstrates that these responsibilities are being fulfilled. Whilst MIST will hold School Governors accountable for the proper performance of their delegated functions, MIST acknowledges that ultimate legal responsibility for all matters relating to the Schools rests with MIST and it is not intended that any School Governor will bear personal liability for those matters.

3.2.2. This Instrument is the primary instrument for the delegation of MIST’s functions, duties and powers under MIST’s Articles of Association. It is supported and supplemented (but not overridden) by the MIST Governance Manual.

3.2.3. The MIST Governance Manual provides more detailed, school-specific guidance on specific matters and should be used to help interpret delegated powers and support decision-making.

3.3. Inter-relating powers of MIST and the Board of Governors

3.3.1. MIST has full legal responsibility for the operation of the Schools, the School Property and all other matters relating to each of the Schools. In order properly to discharge its duties and responsibilities in relation to the Schools, under and in accordance with this Instrument and the MIST Governance Manual, MIST delegates the governance of Schools to the School Governors who delegate operational management to the School’s Executive.

3.3.2. MIST retains general responsibility for oversight of the Schools, their strategic direction, their financial health, overall educational and pastoral ethos, the safety and well-being of pupils and the management of their estates. Under the MIST Governance Manual, MIST has put in place specific reporting structures in these and certain other, related areas of concern. In addition, MIST reserves to itself and therefore does not delegate approval to the Board of Governors for:

- any scheme which would involve the sale, mortgage, lease or other disposal of land and buildings;

- confirming 5 yearly Development Plans, annual Budgets as supported by capital expenditure projects (for example, major campus redevelopment) and financial forecasts; and
- any expenditure beyond that approved in the School Budget.

3.4. Jurisdiction of School Governors over School Arrangements

- 3.4.1.** Within the limits set by this Instrument of Government and the MIST Governance Manual, and subject to approval by School Governors, the Head shall be responsible for all decisions relating to the curriculum of the School. The Head shall submit to School Governors and to MIST such reports as they may require.
- 3.4.2.** School Governors shall exercise general supervision of the care and management of all of their School's School Property and shall every year determine the amounts which they deem appropriate to be paid out of the income of the School for the purposes of the maintenance of the School Property.
- 3.4.3.** School Governors, shall recommend to MIST such Development Plans and Budgets (prepared by the Head and School Executive) as they deem appropriate to continually develop the School and comply with the requirements of MIST.

3.5. The obligations of MIST

- 3.5.1.** In support and in conjunction with the School Governors and the Schools, MIST shall:
- provide a Mission Statement, embracing Vision, Ethos and Values, which it will review from time to time;
 - provide to the Schools educational guidelines from time to time to encourage consistency with the Mission Statement;
 - annually provide financial parameters for the Schools to work within;
 - routinely review each School's Business and Development Plan and the details of its budgeting process;
 - challenge and support the Schools to achieve excellence in all areas of School performance.

3.6. Obligation of MIST to intervene

- 3.6.1.** MIST expects to intervene in the operational administration of the Schools only in exceptional circumstances. However, in order properly to discharge its duties and responsibilities, MIST shall expect to intervene in the governance of all or any of the Schools in the following circumstances:
- a School's failure to meet covenanted standards for ethos, character and diversity as agreed between the Board of Governors and MIST;
 - a School's failure to meet covenanted educational standards as agreed between the Board of Governors and MIST in relation to expected outcomes for pupil cohorts;
 - a School's failure to meet covenanted financial standards as agreed between the Board of Governors and MIST, including financial returns and standards of control over assets and liabilities;
 - in the event of a fundamental break-down in relationships between the MIST Trustees and School Governors, School Governors and a School's senior management team including, inter-alia, relationships between Chair of School Governors, Head, Chaplain and Bursar;
 - a breach of any mandatory requirement in the MIST Governance Manual;
 - at the express request of School Governors, the Chair of MIST, or the Secretary of The Methodist Church; and

- in the event of any material regulatory or compliance failure at a School, or any formal inquiry or investigation by any statutory authority.

3.7. School Governors

- 3.7.1.** The obligations of School Governors in their administration of the Schools shall be:
- to comply with the terms on which powers are delegated to them by MIST (as set out in this Instrument of Government and the MIST Governance Manual) and, in particular, to develop and implement a Development Plan for the School;
 - to be fully accountable to MIST and to give a full account to MIST whenever necessary, and at least annually report on how their School continues to meet the Standards.
- 3.7.2.** The constitution and procedure of School Governors of the School shall be in accordance with the Articles of Association of MIST and the MIST Governance Manual.
- 3.7.3.** MIST shall consider, on the recommendation of School Governors, all appointments to School Governing Bodies.
- 3.7.4.** All processes for appointment of School Governors are included in the MIST Governance Manual.
- 3.7.5.** Appointments of Chairs, Heads, Bursars and Chaplains shall be made in accordance with MIST policy as set out in the MIST Governance Manual (with MIST's direct involvement as specified therein).

4. PROPERTY

4.1. Property Ownership

All School Property is to be vested (in the case of land) in MSPC, to be held by it for the purposes of MIST and (in the case of other school assets) in MIST.

4.2. Investment of cash and other funds

The School Governors should discuss and agree with MIST the purpose for which they propose to hold funds which are not required for the operation of the School or to support its Development Plan. Subject to the agreement of MIST, such funds may be held in a bank account designated for use by or on behalf of the School.

4.3. Management and letting of lands

Provided such accommodation is necessary for the proper performance of an employee's duties, School Governors may allot accommodation in any buildings comprising the School Property to that employee as a residence for them and any member of their family during the period of their employment. (Unless expressly agreed with MIST to the contrary) such accommodation shall be provided only for such time as the individual concerned remains employed within the School and on terms that ensure security of tenure does not arise. Authority for other lettings is covered by Clause 4.5 below.

4.4. Repair and insurance

- 4.4.1.** School Governors to ensure that all the information provided for the level and extent of cover is available. MIST is responsible for placing the cover under a Group policy.
- 4.4.2.** Schools should maintain a record of their historic insurance cover in order to be able to demonstrate the existence of cover in the event of an historic claim.

4.4.3. All insurances should be taken out in MIST's name with the School Governors' interests noted accordingly.

4.5. Sale, mortgage, lease, letting or other disposal of property

4.5.1. School Governors may recommend to MIST the sale, mortgage, lease, letting, exchange or other disposal of all or any School Property. School Governors may licence the use of School Property in accordance with the MIST Governance Manual.

4.5.2. In accordance with Clause 4.2, the net proceeds of any such sale, mortgage, lease, letting, exchange or other disposal of all or any School Property shall be invested by MIST.

4.5.3. Subject to the approval of MIST, School Governors may apply the whole or part of the proceeds of any such sale, mortgage, lease, letting, exchange or other disposal of all or any School Property in carrying out improvements to other School Property or in providing other land and buildings to be vested in MSPC on behalf of MIST. Such re-investment by Local Governors should be based on preparation of an acceptable business case pre-authorized by MIST.

4.5.4. In the event of MIST deciding that there should be a sale, mortgage, lease, letting, exchange or other disposal of all or any part of School Property, MIST will consult with the relevant School Governors. This consultation shall be in such form as to enable School Governors to be fully apprised of the proposals and to give full consideration to them at a meeting called for that purpose. MIST shall supply details of the proposals to the relevant School Governors who shall normally have a period of ninety days from the receipt of the proposals within which to consider them and make representations and/or counter-proposals. Such representations and/or counter-proposals shall be given full consideration at a further meeting of MIST before any decision of MIST is implemented. This consultation may be waived where intervention pursuant to Clause 3.6 is deemed necessary.

5. EDUCATION

5.1. Educational Provision

Educational provision shall be determined by the Board of Governors in consultation with the Head, and in accordance with the MIST Governance Manual.

5.2. Worship and Religious Education

Worship and religious education shall be given in accordance with the MIST Governance Manual.

6. ACCOUNTING AND FINANCE

6.1. Accounts

School Governors shall ensure that proper accounting records are kept, that termly and annual accounts for their School are prepared and submitted to MIST and that the annual accounts are audited through the arrangements made by MIST. The School Governors may make available copies of their audited non-statutory accounts to third parties as they deem appropriate.

6.2. Financial projections

School Governors shall ensure that development plans, budgets, loan applications and all business cases supporting capital expenditure proposals include all necessary financial projections to enable a proper evaluation of those proposals by MIST. For the avoidance of doubt, these will include income and expenditure statements, balance sheet, cash flow and impact on financial covenants.

6.3. VAT

Schools shall operate within the VAT structure determined by MIST and shall not undertake any activity to prejudice that structure without prior agreement from MIST.

6.4. Endowments

School Governors and MIST may receive any additional donations or endowments for the charitable purposes of the Schools. They may also receive donations or endowments for any special objects connected with the Schools not inconsistent with, or calculated to impede, the due working of, the provisions of this Instrument. This shall be done in accordance with the terms of the Financial Procedures Manual.

6.5. General Powers Over Accounting and Finance

The powers of MIST and School Governors over accounting and finance matters shall be further informed by the Financial Procedures Manual.

7. OTHER

7.1. Power to make Rules

Within the limits prescribed by this Instrument and the MIST Governance Manual, School Governors shall have power to make rules for the management of the Schools and for the conduct of their business.

7.2. Power to Amend

MIST may at any time by resolution, on reasonable notice to and after due consultation with School Governors revoke, alter or add to the provisions of this Instrument.

7.3. Copies of Instrument

A copy of this Instrument, together with the MIST Governance Manual, shall be given to every School Governor upon entry into office and all employees notified on appointment that the complete text is available for inspection in each School.