
STATUTORY INSTRUMENTS

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EDUCATION, SCOTLAND

The Dumfries and Galloway Children's Home Trust Scheme 1981

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ARRANGEMENT OF PARAGRAPHS

PART I

CITATION AND INTERPRETATION

Paragraph

1. Citation
2. Interpretation

PART II

THE GOVERNING BODY

3. Reconstitution of governing body
4. Composition of governing body
5. Method of appointment
6. Periods of office
7. Vacation of office
8. Procedure on occurrence of vacancies
9. Validity of proceedings of governing body
10. Transitional arrangements

PART III

ADMINISTRATIVE ARRANGEMENTS

11. Chairman
12. Committees
13. Administrative staff
14. Security measures
15. Execution of deeds
16. Meetings of governing body
17. Quorum of governing body
18. Minute book
19. Rules and standing orders

PART IV
VESTING AND FINANCIAL ARRANGEMENTS

Paragraph

20. Vesting of endowment
21. Powers of investment
22. Additional donations
23. Capital expenditure
24. Application of income
25. Reserve Fund

PART V
PURPOSES OF THE TRUST

26. Provision and maintenance of home
27. Management of home
28. Control by governing body
29. Admission of beneficiaries
30. Terms of admission
31. Maintenance, education and after-care of beneficiaries
32. Retiring allowances

PART VI
MISCELLANEOUS PROVISIONS

33. Continuation of benefits
34. Copies of scheme
35. Revocation

SCHEDULE—Particulars of endowment to which this scheme relates.

In exercise of the powers conferred on him by sections 105(1) and 112(2) of the Education (Scotland) Act 1980(a) and all other powers enabling him in that behalf and after

- (a) preparing a draft scheme for the future management of the endowment known as the Dumfries and Galloway Girls' Home Trust,
- (b) carrying out the procedure specified in section 112(1) of the said Act, and
- (c) no objections or proposed amendments to the draft scheme having been received by him,

the Secretary of State hereby makes the following scheme:—

PART I
CITATION AND INTERPRETATION

Citation

1. This scheme may be cited as the Dumfries and Galloway Children's Home Trust Scheme 1981.

Interpretation

2.—(1) In this scheme, unless the context otherwise requires:—

“beneficiary” means a child admitted under the provisions of paragraph 29 to the home maintained by the governing body;

(a) 1980 c. 44.

“date of this scheme” means the date upon which this scheme comes into operation;

“endowment” means the Dumfries and Galloway Children’s Home Trust;

“governing body” means the body reconstituted under the provisions of paragraph 3;

“Scheme of 1959” means the Dumfries and Galloway Girls’ Home Trust Scheme 1959 approved by Order in Council dated 8th April 1960.

(2) References in this scheme to a Part or paragraph shall, except where the context otherwise requires, be construed as references to a Part or paragraph of this scheme, as the case may be.

PART II

THE GOVERNING BODY

Reconstitution of governing body

3. For the purpose of carrying this scheme into effect, the governing body constituted and incorporated under the Dumfries and Galloway Girls’ Home Trust Scheme 1933 and continued under the Scheme of 1959 with the name of “The Governors of the Dumfries and Galloway Girls’ Home Trust” shall be and is hereby reconstituted under the name of “The Governors of the Dumfries and Galloway Children’s Home Trust” as a body corporate with perpetual succession and a common seal and with all the rights, powers and privileges of a body corporate.

Composition of governing body

4. The governing body shall consist of eight appointed governors, that is to say:—

- (a) four persons to be appointed by Dumfries and Galloway Regional Council from the members of the Social Work Committee of the said Council;
- (b) two persons to be appointed by Dumfries and Galloway Regional Council from the members of the Education Committee of the said Council;
- (c) one person to be appointed by Wigtown District Council from the members of the said Council;
- (d) one person to be appointed by Nithsdale District Council from the members of the said Council.

Method of appointment

5. The appointments of governors under paragraph 4 shall be made by the respective appointing bodies, or by committees thereof to whom the power to appoint has been delegated, either at ordinary meetings or at meetings summoned expressly for the purpose which shall be convened and conducted according to the ordinary rules and practices of the respective bodies.

Periods of office

6. Subject to the provisions of paragraph 7, the governors shall hold office for periods of four years and shall be eligible for re-appointment:

Provided that a governor appointed in place of a governor who has died or otherwise vacated office before the end of his normal term of office shall hold office only during the unexpired portion of the said governor’s term of office.

Vacation of office

7. Any governor shall be deemed to have vacated office as a member of the governing body and the governing body shall declare his place vacant in any of the following circumstances:—

- (a) where he has ceased to be a member of the body from which he was appointed;
- (b) where he intimates in writing to the governing body his resignation as a governor;
- (c) where he has had his estate sequestrated or has made a trust deed for his creditors;
- (d) where he has become incapacitated to act as a governor; or
- (e) where for the space of one year and without reasonable cause he has failed to attend any meeting of the governing body.

Procedure on occurrence of vacancies

8.—(1) Every vacancy, whether occasioned by expiry of a period of tenure of office or by resignation, death, or any other cause, shall be entered in the minutes.

(2) Each vacancy shall be intimated by the clerk to the governing body to the body entitled to appoint a successor. In the case of a vacancy caused by the expiry of the period of tenure of office, the intimation shall be made not less than one month before the date of the vacancy. In other cases, the vacancy shall be intimated as soon as may be after its occurrence. Within three months of the date of the intimation, a successor shall be appointed by the body entitled to make the appointment.

(3) If the body concerned fails to appoint a governor within the said period of three months, it shall be in the power of the governing body to appoint a successor, provided that the person appointed shall be a person eligible to be appointed by the said appointing body. Any appointment under this paragraph shall be deemed to be an appointment by the body entitled to make the appointment.

Validity of proceedings of governing body

9. The proceedings of the governing body or of any committee appointed by them shall not be invalidated by any vacancy among the governors or by any defect in the appointment of any of the governors, provided that the number of governors validly appointed and in office at the time of the said proceedings is not less than five.

Transitional arrangements

10. The governors in office at the date of this scheme shall, subject to the provisions of paragraph 7, remain in office until the expiry of the periods of office for which they were respectively elected and, on the occurrence of vacancies, the vacancies shall be filled in accordance with the provisions of this scheme.

PART III ADMINISTRATIVE ARRANGEMENTS

Chairman

11. The governing body shall from time to time appoint a chairman from their own number. They may make such rules under paragraph 19 as they think fit for filling his place in the case of his absence.

Committees

12. The governing body may appoint such committees of their own number or otherwise as they think fit, appoint the convener of each committee, confer on each committee all such powers and give all such instructions as may appear expedient and fix the quorum of each committee.

Administrative staff

13.—(1) The governing body shall appoint a clerk or factor and may appoint such other administrative officers as they consider necessary at such reasonable salaries and under such conditions of service as they may determine.

(2) Any officer of the governing body whose duties include intromissions with the funds vested in the governing body shall find such caution for his intromissions as the governing body may require.

(3) No governor acting as clerk or other officer of the endowment shall be entitled to any remuneration.

Security measures

14. The governing body shall make such arrangements as they consider adequate for the safe custody of all deeds and other documents belonging to them, for the banking of money and for the signing of cheques.

Execution of deeds

15. All deeds and other writings which are sealed with the common seal and signed by two of the governors and by any duly authorised officer of the governing body appointed for the purpose, shall be held to be validly executed on behalf of the governing body.

Meetings of governing body

16.—(1) The governing body shall hold at least one ordinary meeting in each year at such place and time as they may determine.

(2) The chairman may at any time convene a special meeting of the governing body.

(3) Any three of the governors may for any cause which seems to them sufficient require a special meeting to be convened by giving notice in writing to the clerk to the governing body specifying the business to be transacted.

(4) At least fourteen days' notice of meetings shall be given and such notice, which shall be in writing, shall specify the date, time and place of the meeting and the business to be transacted.

(5) Notwithstanding the provisions of sub-paragraph (4) above, the chairman or any governor duly authorised by the chairman may convene a meeting on less than fourteen days' notice. No resolution or motion carried at such a meeting shall be valid unless it is voted for by a majority of all the governors then in office or unless it is confirmed at any subsequent meeting convened under the provisions of sub-paragraph (4) above.

Quorum of governing body

17.—(1) At all meetings of the governing body three governors shall be a quorum and, subject to the provisions of sub-paragraph (5) of paragraph 16 all questions shall be determined by a majority of the governors present. The chairman of any meeting shall have a second or casting vote in addition to a deliberative vote.

(2) If at any time appointed for a meeting or if before the business of any meeting has been completed the number of governors present is less than three, the governors present shall adjourn the meeting to such day or time as they may determine and the provisions of sub-paragraph (4) of paragraph 16 shall apply.

Minute book

18. A minute book shall be kept by the governing body and minutes of all proceedings of the governing body shall be entered therein, including resolutions authorising the execution of all deeds and other writings on their behalf.

Rules and standing orders

19. Subject to the provisions of this scheme, the governing body may make such rules and standing orders for the regulation of their proceedings, the keeping of records, the execution of documents and such other matters connected with the business and functions of the governing body as they think fit.

PART IV

VESTING AND FINANCIAL ARRANGEMENTS

Vesting of endowment

20. From and after the date of this scheme, the endowment specified and described in the schedule to this scheme shall remain vested in the governing body under the name of the Dumfries and Galloway Children's Home Trust and shall be held, administered and applied by them exclusively in accordance with the provisions of this scheme.

Powers of investment

21. In regard to the investment of the funds of the endowment and of additional donations received by them under paragraph 22 the governing body shall have all powers competent to them under the common law of Scotland as a body corporate.

Additional donations

22. The governing body may appeal to the public for and receive donations, legacies, annuities, subscriptions and other gifts (hereinafter referred to as "additional donations") for the purposes of this scheme, or for purposes connected therewith and such additional donations shall be applied in accordance with the directions of the respective testators or donors. In the absence of any specific direction relating thereto the governing body shall apply any additional donation to the capital or income of the endowment or to the Reserve Fund continued by paragraph 25, or divide the said additional donation in such proportions as they think fit between any two or all three of the said purposes.

Capital expenditure

23.—(1) It shall be in the power of the governing body to incur capital expenditure for any of the purposes of Part V to which capital may properly be devoted.

(2) The governing body may meet the cost of such capital expenditure by making drafts upon the capital of the endowment or by borrowing on the security of the property, funds and assets vested in them.

(3) Each draft upon capital and each loan shall be repaid from income to capital or the lender, as the case may be, within such period of not more than thirty years as the governing body consider reasonable having regard to the purpose for which the expenditure was incurred, provided that the governing body shall be entitled to make drafts upon capital equivalent to any sums added to capital under sub-paragraph (2) of paragraph 24 without repaying such drafts.

Application of income

24.—(1) The governing body, after paying the necessary expenses of management and the burdens and taxes affecting the endowment and after setting aside the sums required under sub-paragraph (3) of paragraph 23 to repay loans or to replace drafts upon capital, shall apply the free annual income of the endowment in executing the purposes of this scheme.

(2) If at the end of any financial year there is an unexpended balance of income, the governing body shall transfer the said balance to the Reserve Fund continued by paragraph 25.

Reserve Fund

25. The governing body shall continue to maintain the Reserve Fund established under section 27 of the Dumfries and Galloway Girls' Home Trust Scheme 1933 and continued under section 17 of the Scheme of 1959, with any sums transferred under paragraph 22 or sub-paragraph (2) of paragraph 24. It shall be in the power of the governing body to use the Reserve Fund either to supplement the ordinary income of the governing body in years in which the ordinary income is insufficient to meet the ordinary expenditure of the governing body or to defray extraordinary expenditure which the governing body may find it expedient to incur.

PART V

PURPOSES OF THE TRUST

Provision and maintenance of home

26.—(1) The governing body shall continue to provide and maintain a home for the benefit of the category of children described in paragraph 29. The home shall be known as "Windsor Lodge" or by such other name as the governing body may decide.

(2) It shall be in the power of the governing body to provide and maintain playgrounds, with any necessary buildings or erections, to be used for games and physical recreation in connection with the home.

(3) It shall be in the power of the governing body to purchase, feu, lease or otherwise acquire and hold such land and buildings as may in the opinion of the governing body be required, and to erect on land so acquired and on land vested in them at the date of this scheme such buildings as the governing body may consider necessary. The governing body may alter, improve, enlarge and equip the buildings vested in them at the date of this scheme and any other buildings acquired or built by them, provided that before work is begun upon such alterations, improvements, enlargements or additional buildings, the governing body shall obtain approval by the Secretary of State of the plans. The governing body may sell, feu or lease any lands vested in them or acquired by them and may in addition lease any existing or future buildings on such lands.

Management of home

27.—(1) The governing body shall appoint for the management of the home a house-committee composed of persons who reside within a convenient distance of the home and have experience in the upbringing and education of children. The governing body shall have power to make rules under paragraph 19 as to the composition and method of appointment to membership of the house-committee, the term of office of members of the house-committee, the quorum of the house-committee, the mode of conducting business at house-committee meetings and, subject to the provisions of this scheme, the powers to be exercised by the house-committee.

(2) The house-committee shall exercise a general supervision and control over the home and the children resident there. They shall, subject to confirmation by the governing body, have power to appoint and to dismiss the members of the staff of the home other than the houseparent, and shall have power to suspend the houseparent and other members of the staff of the home.

(3) A houseparent shall be appointed. He or she shall, subject to the supervision of the house-committee and of the governing body, have the direct control of the home, of the children resident there and of the staff attached to the home and shall be generally responsible for the whole discipline and organisation of the home and for the welfare of the children resident there. The houseparent shall have power summarily to suspend any member of the staff of the home, provided that he or she shall report such suspension within two days to the house-committee. Suspension shall not affect the rights of the person suspended to salary or other emoluments attached to his or her post.

Control by governing body

28. The governing body shall exercise a general supervision and control over the home. They shall not delegate powers to appoint or to dismiss the houseparent but shall before exercising the said powers receive and consider any recommendations made by the house-committee established or continued by this scheme. No child shall be removed from the home under the provisions of sub-paragraph (2) of paragraph 30 without the express approval of the governing body which shall be recorded in the minutes of the governing body. The governing body shall retain control of the finances of the endowment. Subject to the exceptions specified in this paragraph, it shall be in the power of the governing body to delegate such of their powers and duties as they think fit to the house-committee.

Admission of beneficiaries

29.—(1) The governing body shall admit to the home children whose circumstances in the opinion of the governing body make it desirable in the interests of the children that they should be admitted to a home of the type conducted by the governing body. If the number of applications for admission exceeds the number of vacancies the governing body shall prefer the applications on behalf of children resident in or connected with the Region of Dumfries and Galloway.

(2) The governing body shall satisfy themselves that the state of health of the children to be admitted to the home is not prejudicial to the other children.

(3) No girl in receipt of benefit to which she was entitled under the provisions of the Scheme of 1959 shall be deprived of such benefit by reason only of the coming into operation of this scheme.

Terms of admission

30.—(1) The period during which any beneficiary may remain in the home shall be at the sole discretion of the governing body.

(2) It shall be in the power of the governing body to require the removal of any beneficiary from the home if, in the opinion of the governing body, the beneficiary so behaves as to warrant removal or is on medical grounds undesirable as a resident in the home:

Provided that the governing body before exercising the said power shall satisfy themselves that other appropriate provision will be made for the care of the beneficiary by a local authority, or a voluntary body or a suitable person.

(3) In cases in which the governing body admit a beneficiary to the home at the request of the Department of Health and Social Security or of a Regional Council, or of a parent or guardian who is in a position to make payments for the support of the beneficiary, the governing body may make a charge on the said body or person who made the request towards the cost incurred or to be incurred in respect of the beneficiary.

(4) In any case in which a beneficiary is in receipt of an income, the governing body may make a reasonable charge towards the costs incurred in respect of the said beneficiary.

Maintenance, education and after-care of beneficiaries

31.—(1) It shall be the duty of the governing body to maintain, clothe and house the beneficiaries and to provide for their religious instruction and moral training and for their physical welfare. Such religious instruction shall be in accordance with the doctrines of the Church of Scotland, provided that suitable arrangements shall be made for the religious instruction of beneficiaries belonging to other denominations or faiths.

(2) It shall be in the power of the governing body to require children under the age of five years to attend a nursery school.

(3) The governing body shall cause every beneficiary who is of school age to attend the school which in the opinion of the governing body is most suited to a particular child's needs.

(4) The governing body shall determine as regards each beneficiary, after consultation with the beneficiary and with such other persons as they think fit, whether or not the beneficiary, after ceasing to be of school age, should continue to receive secondary education or should undergo further education.

(5) The governing body shall not discharge any beneficiary from the home unless they are reasonably assured that suitable provision has been made for the beneficiary's welfare.

(6) It shall be in the power of the governing body to grant financial assistance for the following purposes:—

(a) to enable a beneficiary who is resident in the home or who has left the home to undergo training for or in any profession or other occupation of which they approve;

(b) towards the cost of the education of any beneficiary who has left the home.

(7) It shall be in the power of the governing body to provide facilities in the home for clubs or reunions of beneficiaries who formerly resided in the home.

It shall also be in their power to assist financially or otherwise the activities of any association of such beneficiaries approved by the governing body.

Retiring allowances

32. It shall be in the power of the governing body to pay a pension or retiring allowance or to supplement the pension or retiring allowance of any person who is or has been employed by them. It shall be lawful for the governing body to enter into such arrangements as they deem necessary for the exercise of their powers under this paragraph.

PART VI

MISCELLANEOUS PROVISIONS

Continuation of benefits

33. Any person who at the date of this scheme is a beneficiary under the endowment to which this scheme relates shall continue to enjoy the benefits thereof subject always to the conditions under which it was awarded.

Copies of scheme

34. The governing body shall maintain a supply of printed copies of this scheme and shall cause a copy to be kept available for inspection by every member and officer of the governing body and copies shall be made available for sale to the public at a reasonable price.

Revocation

35. The Dumfries and Galloway Girls' Home Trust Scheme 1959 shall cease to have effect on the date of this scheme.

Given under the seal of the Secretary of State for Scotland.

Alastair D. F. Findlay,
Assistant Secretary.

Scottish Education Department,
New St. Andrew's House,
Edinburgh.
2nd November 1981.

SCHEDULE

Paragraph 20

PARTICULARS OF ENDOWMENT TO WHICH THIS SCHEME RELATES

Name of endowment	Founder	Governing Instrument
Dumfries and Galloway Girls' Home Trust	Subscribers to the Trust	Dumfries and Galloway Girls' Home Trust Scheme 1959 approved by Her Majesty in Coun- cil on 8th April 1960.