

THE CHARITY COMMISSION FOR ENGLAND AND WALES

Under the power given in the Charities Act 2011

Orders that from today, the

1 February 2013

this

SCHEME

will govern the charities

formerly known as

EXETER MUNICIPAL CHARITIES (201530)

and

THE LORD MAMHEAD HOMES (231100)

and now to be known as

THE EXETER MUNICIPAL CHARITY (201530)

at

Exeter, Devon

Graham Divers

Authorised Officer

1. Definitions

In this scheme:

“the almshouse beneficiaries” means poor persons of not less than 55 years of age who are living or have lived in the area of benefit.

“the area of benefit” means the area falling within a ten mile radius from The Guildhall, High Street, Exeter.

“the charity” means the charity created by clause 2 of this scheme.

“the Commission” means the Charity Commission for England and Wales.

“the existing residents” means the residents living in the homes at the date of this scheme.

“the homes” means the almshouses of the charity and “home” means one of the almshouses.

“the reserve funds” means the funds identified in clause 31 of this scheme.

“the residents” means those beneficiaries of the charity who live in the homes and “resident” means one of the residents.

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

ADMINISTRATION

2. Administration

The charities identified at the beginning of this scheme are to be administered as one charity 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 The Exeter Municipal Charity.

OBJECTS

4. Objects of the charity

The objects of the charity are:

- (1) the relief of poverty by the provision of housing accommodation for almshouse beneficiaries;
- (2) such charitable purposes for the benefit of the residents as the trustees decide;

- (3) subject to the provisions of clause 5 (Power to dispose of and replace purpose property), the land identified in part 1 of the schedule to this scheme must be retained by the trustees for use for the objects of the charity.

5. Powers to dispose of and replace purpose property

- (1) This clause is subject to the requirements of part 7 of the Charities act 2011.
- (2) The trustees may sell, lease or otherwise dispose of all or any part of the land identified in part 1 of the schedule to this scheme.
- (3) The trustees must replace the land disposed of with equivalent land to be used for the objects of the charity.

POWERS OF THE TRUSTEES

6. 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 make reasonable regulations consistent with this scheme for the management of the homes and the welfare of the residents.
- (2) Power to insure against public liability and, if appropriate, employers' liability; and to insure the homes to their full value against fire and all other usual risks.
- (3) Power to appoint a warden and other staff (who must not be trustees) and pay them reasonable remuneration, including pension provision for them and their dependants, and to provide a residence for the warden in the homes or elsewhere.

TRUSTEES

7. Trustees

- (1) There should be:

1 ex officio trustee
4 nominated trustees and
12 co-opted trustees

appointed in accordance with clauses 8, 9 and 10.
- (2) The first nominated and co-opted trustees are the persons listed in part 2 of the schedule to this scheme. Subject to clause 14 (termination of trusteeship) they will hold office for the periods shown in the schedule.

8. Ex officio trustee

- (1) The ex officio trustee will be the Lord Mayor of Exeter for the time being ('the office holder').
- (2) If unwilling to act as ex officio trustee, the office holder may:

- (a) before accepting appointment as ex officio trustee, give notice in writing to the trustees of his or her unwillingness to act in that capacity; or
- (b) after accepting appointment as ex officio trustee, resign under the provisions contained in clause 14 (3) below.

In either case, the office of ex officio trustee will then remain vacant until the office holder ceases to hold office.

9. Nominated trustees

- (1) The nominated trustees must be appointed by Exeter City Council.
- (2) Any appointment must be made at a meeting held according to the ordinary practice of the Council.
- (3) Each appointment must be made for:
 - (a) 4 years; or
 - (b) if the appointment is being made to fill a casual vacancy, the unexpired term of the appointee's predecessor.
- (4) 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.
- (5) The person appointed need not be a member of the Council.

10. Co-opted trustees

- (1) The appointment of a co-opted trustee must be made by the trustees at a special meeting called under clause 18.
- (2) 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.

11. New trustees

The trustees must give to 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.

12. 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 Council entitled to appoint the trustee.

13. Payments to charity trustees

- (1) A trustee may receive from the charity reasonable expenses properly incurred, or to be incurred, by him or her when acting on behalf of the charity.
- (2) No trustee may:
 - (a) buy or receive goods or services from the charity on terms preferential to those applicable to other members of the public; or
 - (b) receive any payment or other financial benefit from the charity; or
 - (c) acquire or hold any interest in property of the charity (except in order to hold it as a trustee of the charity);unless the payment or transaction is:
 - (d) permitted in accordance with, and subject to the conditions in, section 185 or 189 of the Charities Act 2011 [*services including goods supplied in connection with the service provided by a charity trustee to a charity; trustee indemnity insurance*]; or
 - (e) permitted in accordance with, and subject to the conditions in, sub-clause 3 of this clause; or
 - (f) previously and expressly authorised in writing by the Commission.
- (3) A trustee may receive payment for goods supplied to the charity, provided that:
 - (a) the sums paid to the trustee do not exceed an amount that is reasonable in all the circumstances; and
 - (b) the trustee is absent from the part of any meeting at which there is discussion of the proposal to enter into a contract or arrangement with him or her with regard to the supply of goods to the charity; and

- (c) the other trustees are satisfied that it is in the interests of the charity to contract with that trustee, rather than with someone who is not a trustee (in reaching that decision, the trustees must balance the advantages and disadvantages of contracting with a trustee); and
 - (d) the reason for their decision is recorded by the trustees; and
 - (e) the number of trustees in receipt of any payments authorised by this clause is a minority of the trustees then in office.
- (4) In this clause:
- (a) “charity” includes any company in which the charity:
 - holds more than 50% of the shares; or
 - controls more than 50% of the voting rights attached to the shares; or
 - has the right to appoint one or more directors to the Board of the company;
 - (b) “trustee” includes any child, parent, grandchild, grandparent, brother, sister, spouse or civil partner of the trustee or any person living with the trustee as his or her partner.

14. 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 178 of the Charities Act 2011; or
- (2) is not an ex officio trustee and 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 1 month’s notice in writing of his or her intention to resign (but only if at least 12 trustees will remain in office when the notice of resignation is to take effect).

OFFICERS

15. 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.

16. Secretary or clerk

The trustees may appoint a secretary or clerk. The office may be held by:

- (1) a trustee (who must not receive any reward for acting and who may be dismissed as secretary or clerk at any time); or
- (2) some other suitable person (who may be employed upon such reasonable terms, including terms as to notice, as the trustees think fit).

MEETINGS OF TRUSTEES

17. Ordinary meetings

- (1) The first meeting after the date of this scheme must be called by Mr S Sitch or, if they do not do so within 3 months from that date, by any 2 trustees.
- (2) The trustees must hold at least 6 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.

18. 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 the appointment of a co-opted trustee require at least 21 days notice.
- (3) The notice calling a special meeting must include details of the business to be transacted at the meeting.
- (4) A special meeting may, but need not, be held immediately before or after an ordinary meeting.

19. Quorum

No business may be transacted at a meeting unless at least 5 trustees are present.

20. 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.

21. Recording of meetings

The trustees must keep a proper record of their meetings.

22. Trustees to act jointly

The trustees must exercise their powers jointly, at properly convened meetings.

THE CHAPEL

23. The Chapel

The trustees shall provide and maintain St Clare's Chapel for primarily worship. The chapel shall be open to all persons for worship and for purposes which are commensurate with its nature as a sacred building even if that purpose is not specifically religious.

ALMSHOUSES AND RESIDENTS

24. Existing residents

The terms on which the existing residents occupy the homes are not affected by the making of this scheme.

25. Contributions

The trustees may make it a condition of appointing a resident that the resident must:

- (1) contribute a weekly sum (which must not cause the resident hardship) towards the cost of maintaining the homes and essential services in them;
- (2) contribute towards the cost of lighting and heating the homes and providing hot water in them.

26. Applications for appointment

- (1) The trustees must give public notice of a vacancy in the homes, unless:
 - (a) the person to be appointed has been a resident; or
 - (b) notice has been given in the last 12 months.
- (2) Before making an appointment the trustees must:
 - (a) decide how applications are to be made to them;
 - (b) consider the suitability of each applicant;
 - (c) arrange for at least one of the trustees, or an officer of the charity, to meet the person to be appointed, unless they consider that special circumstances make this unnecessary.
- (3) The trustees may, in exceptional circumstances, appoint a resident who lives outside the area of benefit but is otherwise qualified. The trustees must record in the record of their meetings the nature of the exceptional circumstances justifying the appointment. The number of residents appointed under this sub-clause must not exceed one-third of the number of residents at any one time.

27. Records

The trustees must keep records of:

- (1) the date of each vacancy and the reason for it;
- (2) the names of persons who have applied for appointment;
- (3) the name and age of every resident and the date of their appointment.

28. Occupation of homes

- (1) The trustees must set out in writing the terms on which a resident occupies their home. A copy of the document recording the terms of occupation (which may take the form of a letter of appointment) must be signed by the resident as evidence of their acceptance.
- (2) The terms must include:
 - (a) a requirement that neither the resident nor any relation or guest of theirs will be a tenant of the charity or have any legal interest in the home;
 - (b) a requirement that the resident must live in the home and not be absent from it, without the trustees' permission, for more than 28 days in any year;
 - (c) a requirement that, without the trustees' permission, the resident must not:
 - (i) allow anyone to share the home with them; or
 - (ii) give up possession of it,in whole or in part;
 - (d) a power for the trustees to require the resident to move, temporarily or permanently, to another home;
 - (e) a power for the trustees to end the resident's appointment at any time for the reasons mentioned in clause 29 of this scheme; and
 - (f) such other provisions as the trustees think necessary for the effective running of the homes for the benefit of the residents generally.

29. Termination of appointments

The trustees may terminate the appointment of any resident who:

- (1) was appointed without the necessary qualifications or no longer has the necessary qualifications; or
- (2) persistently breaches the regulations referred to in clause 28 of this scheme; or

- (3) is no longer suited to be a resident by reason of illness or disability.

CHARITY PROPERTY

30. The property of the charity

The title to the land described in part 1 of the schedule to this scheme shall remain vested in the Official Custodian for Charities in trust for the charity.

31. Reserve Funds

- (1) The trustees must continue to maintain the following reserve funds:
- (a) an Extraordinary Repair Fund to be used by them for the extraordinary repair, improvement or rebuilding of the homes and the other property of the charity.
 - (b) a Cyclical Maintenance Fund to be used by them for ordinary repair and maintenance of the homes and the other property of the charity.
- (2) They must use the charity's income to do so and they must invest the funds in trust for the charity.
- (3) The trustees must keep the size of the funds under review in the light of the demands which may be made upon the funds.

32. Use of income and capital

- (1) The trustees must firstly:
- (a) apply:
 - (i) the charity's income; and
 - (ii) if the trustees think fit, expendable endowment; and
 - (iii) when the expenditure can properly be charged to it, its permanent endowmentin meeting the proper costs of administering the charity and of managing its assets (including the repair and insurance of its buildings);
 - (b) make such annual payments to the reserve funds as they consider necessary.
- (2) After making these payments, the trustees must apply the remaining income in furthering the objects of the charity.
- (3) The trustees may also apply for the objects of the charity:
- (a) expendable endowment; and

- (b) permanent endowment, but only:
 - (i) where it is permitted in accordance with (and subject to the conditions in) the Charities Act 2011; or
 - (ii) on such terms (including for the replacement of the amount spent) as the Commission may approve in advance.

GENERAL PROVISIONS

33. Questions relating to the Scheme

The Commission may decide any question put to it concerning:

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

SCHEDULE

PART 1

Land at Matford Road, Exeter, EX2 4PD with the buildings thereon known as Flats 1 – 6, Lord Mamhead Homes and registered with HM Land Registry under the title number DN614102.

Land at New North Road, Exeter, EX4 4JT with the buildings thereon known as 1 to 24 Atwill Palmer's Almshouses and registered with HM Land Registry under the title number DN566545.

Land at Culverland Road, Exeter, EX4 6JJ with the buildings under construction thereon known as Hurst's Almshouses and registered with HM Land Registry under the title number DN565446.

Land at Fairpark Road, Exeter, EX2 4HL with the buildings thereon known as 5 – 19 (odds) Hurst Trumps Almshouses and 2 – 24 (evens) Fairpark Almshouses and registered with HM Land Registry under the title number DN565444.

Land at Grendon Road, Exeter, EX1 2NJ with the buildings thereon known as 1 – 12 Grendon and 13 – 24 Atwill Kingdon Almshouses and registered with HM Land Registry under the title number DN565442.

Land at Magdalen Road, Exeter, EX2 4SX with the buildings thereon known as 1 – 16 Magdalen Cottages and 1 – 12 North Park Almshouses and registered with HM Land Registry under the title number DN565443.

Land at Fore Street, Exeter, EX2 5DT with the buildings thereon known as 1 – 12 Livery Dole Almshouses, 13 – 27 Livery Dole Flats and St. Clare's Chapel and registered with HM Land Registry under the title number DN565440.

Leasehold land at Livery Dole Almshouses, Exeter, EX2 5DT and registered with HM Land Registry under the title number DN565487.

PART 2

Nominated trustees

Name	Term of office
Cllr R Branston	20/01/2015
Mr P Wadham	20/01/2015
Cllr J Winterbottom	20/01/2014
Cllr L Robson	20/01/2015

Co-opted trustees

Name	Term of office
Mrs J Blackmore	20/01/2014
Miss C Caldwell	20/01/2016
Mr S Force	20/01/2016
Mr R Panter	20/01/2016
Mrs E Norton	20/01/2014
Mr S Sitch	20/01/2017
Mr G Owens	20/01/2017
Mrs P Lawford	20/01/2015
Mrs A Gibson	20/01/2014
Reverend P Morrell	20/01/2016
Mr G Richards	20/01/2017