
Brixton Feoffee Trust

Trust Deed 2019

County: **Devon**

Place: **Brixton**

Charity: **Brixton Feoffee Trust**

CD: **(T1) 203604 a/6**

Varied from the Order of the Commissioners dated 7th February 1996, by a resolution of the Brixton Feoffee Trustees at their meeting on 1st July 2019.

County	Devon
Place	Brixton
Charity	Brixton Feoffee Trust
CD	203604

Scheme including appointment of Trustees

CHARITY COMMISSION

In the matter of the Brixton Feoffee Trust, in the Parish of Brixton, in the County of Devon, regulated by a Scheme of the Charity Commissioners of the 22nd December 1874, as varied by Schemes of the Commissioners of: -

- 18th February 1930
- 27th November 1962
- 7th February 1996
- 1st July 2019

In the matter of the Charities Act 1993 and updated according to the Charities Act 2011 and the new Charities Act 2016.

THE CHARITY COMMISSIONERS FOR ENGLAND AND WALES HEREBY ORDER that the following Scheme be approved and established as the Scheme for the regulation of the above-mentioned Charity:-

SCHEME

1. Objects of the Charity

Income shall be applied as follows:

- a) One half for the upkeep, repair and insurance against fire of the fabric of the parish church of Brixton;
- b) The remaining half of the said income shall be applied in relieving either generally or individually persons resident in the area of benefit who are in conditions of need, hardship or distress by making grants of money or providing or paying for items, services or facilities calculated to reduce the need, hardship or distress of such persons. In exceptional cases the Trustees may grant relief to persons otherwise eligible therefore who are resident immediately outside the said area of benefit but in the opinion of the Trustees ought nevertheless for sufficient reason be treated as if resident therein or who are located for the time being within the area of benefit;
- c) For any charitable purpose for the general benefit of the inhabitants of the said area of benefit.

2. Administration of Charity

- a) The above-mentioned Charity and the property thereof shall be administered and managed subject to and in accordance with the provisions of this Scheme by the body of Trustees hereinafter constituted.
- b) The name of the Charity shall be Brixton Feoffee Trust or such other name as the Trustees from time to time by resolution may decide with the prior approval of the Charity Commissioners.

3. Area of Benefit

In this Scheme the expression "area of benefit" shall be the Parish of Brixton.

Refer to Clause 29 (b) if considering applications from immediately outside the said area of benefit.

TRUSTEES

4. Trustees

The body of Trustees shall consist when complete of five competent persons being –

- Two Nominated Trustees
- Three Co-opted Trustees

5. Eligibility for Trusteeship

No one shall be appointed as a Trustee:

- a) If he or she is under the age of 18 years; or
- b) If he or she would at once be disqualified from office under the provisions of clause 9 of this deed.

No one shall be entitled to act as a trustee whether on appointment or on any re-appointment as trustee until he or she has expressly acknowledged, in whatever way the Trustees decide, his or her acceptance of the office of trustee of the charity.

6. Appointment of Nominated Trustees

Nominated Trustees will be appointed as follows:-

- One by Brixton Parish Council
- One by the Parochial Church Council of the Ecclesiastical Parish of St. Mary's, Brixton

Each appointment shall be made for a term of four years at a meeting of the appointing body. The person appointed may be but need not be a member of the appointing body.

7. Appointment of Co-opted Trustees

Co-opted Trustees shall be appointed for a term of five years by a resolution of the Trustees passed at a special meeting of which not less than 21 days' notice has been given to the Board.

In selecting individuals for appointment as Co-opted Trustees, the Trustees must have regard to the skills, knowledge and experience needed for the effective administration of the charity.

The Trustees must keep a record of the name and address and the dates of appointment, re-appointment and retirement of each Trustee.

8. Declaration by Trustees

No person shall be entitled to act as a Trustee until after signing in the minute book of the Trustees a declaration of acceptance and of willingness to act in the interests of this Scheme.

9. Termination of Trusteeship

A Trustee shall cease to be a Trustee if he or she:

- a) Is disqualified from acting as a Trustee by virtue of the appropriate section of the Charities Act 2016; or any statutory re-enactment of that provision
- b) In the written opinion, given to the charity, of a registered medical practitioner treating that person has become physically or mentally incapable of acting as a Trustee and may remain so for more than three months
- c) Is absent without the permission of the Trustees from all their meetings held within a period of six months and the Trustees resolve that his or her office be vacated
- d) Notifies to the Trustees a wish to resign (but only if enough trustees will remain in office when the notice of resignation takes effect to form a quorum for meetings)

10. Duty of care and extent of liability

When exercising any power (whether given to them by this deed, or by statute, or by any rule of law) in administering or managing the charity, each of the Trustees must use the level of care and skill that is reasonable in the circumstances, taking into account any special knowledge or experience that he or she has or claims to have ("the duty of care").

No Trustee, and no one exercising powers or responsibilities that have been delegated by the Trustees, shall be liable for any act or failure to act unless, in acting or in failing to act, he or she has failed to discharge the duty of care.

11. Vacancies

If a vacancy occurs, the Trustees must note the fact in the minutes of their next meeting. In the case of a vacancy for a Nominated Trustee, notice should be given as soon as possible to the Nominating Body. Any eligible Trustee may be re-appointed.

If the number of Trustees falls below the quorum stated in Clause 17 none of the powers or discretions conferred by this deed or by law on the trustees shall be exercisable by the remaining trustees except the power to appoint new Trustees.

12. Delegation

In addition to their statutory powers, the Trustees may delegate any of their powers or functions to a committee of two or more Trustees. A committee must act in accordance with any directions given by the Trustees. It must report its decisions and activities fully and promptly to the Board of Trustees. It must not incur expenditure on behalf of the charity except in accordance with a budget previously agreed by the Trustees.

The Trustees must exercise their powers jointly at properly convened meetings except where they have:

- a) Delegated the exercise of the powers (either under this provision or under any statutory provision), or
- b) Made some other arrangements, by regulations under clause 22.

The Trustees must consider from time to time whether the powers or functions which they have delegated should continue to be delegated.

MEETINGS AND PROCEEDINGS OF TRUSTEES

13. Expenses

The Trustees may use the charity's funds to meet any necessary and reasonable expenses which they incur in the course of carrying out their responsibilities as Trustees of the charity.

14. Ordinary Meetings

The Board of Trustees shall hold at least four ordinary meetings in each year. All Trustees should attend at least three of the four above-mentioned meetings each year.

The Trustees must arrange at each of their meetings the date, time and place of their next meeting, unless such arrangements have already been made. Ordinary meetings may also be called at any time by the person elected to chair meetings of the Trustees or by any two Trustees. In that case not less than ten days' clear notice must be given to the other Trustees.

15. Special meetings

A special meeting may be summoned at any time by the chair or any two Trustees upon not less than seven days' notice being given to the other Trustees of the matters to be discussed. If matters include the appointment of a Co-opted Trustee or a proposal to amend any of the trusts of this Deed, then not less than 21 days' notice must be given. A special meeting may be called to take place immediately after or before an ordinary meeting.

16. Chair

The Trustees at their first ordinary meeting in each alternate year shall elect one of their number to be chair of their meetings until the commencement of the first ordinary meeting two years later. The Chair shall always be eligible for re-election.

The Chair shall remain elected until the two year period has expired unless he/she wishes to relinquish the post.

If at any meeting the chair is not present within ten minutes after the time appointed for the meeting or there is no chair the Trustees present shall choose one of their number to be chair of the meeting.

The person elected to chair meetings of the Trustees shall have no other additional functions or powers except those conferred by this Deed or delegated to him or her by the Trustees.

17. Quorum

There shall be a quorum when three Trustees are present at a meeting.

18. Voting

Every matter shall be determined by the majority of votes of the Trustees present and voting on the question. In case of equality of votes the chair of the meeting shall have a casting vote whether or not he or she has voted previously on the same question. No Trustee in any other circumstances shall have more than one vote.

19. Minutes

The Trustees shall keep, in files, minutes of the proceedings of their meetings.

20. Conflicts of interests

A charity Trustee must:

- a) Declare the nature and extent of any interest, direct or indirect, which he or she has in a proposed transaction or arrangement with the charity or in any transaction or arrangement entered into by the charity which has not been previously declared; and
- b) Absent himself or herself from any discussions of the charity Trustees in which it is possible that a conflict will arise between his or her duty to act solely in the interests of the charity and any personal interest (including but not limited to any personal financial interest).

Any charity Trustee absenting himself or herself from any discussions in accordance with this clause must not vote or be counted as part of the quorum in any decision of the charity Trustees on the matter.

21. Accounts and annual report

The Trustees must comply with their obligations under the Charities Act 2016 with regard to:

- a) The keeping of accounting records for the charity;
- b) The preparation of annual accounts for the charity;
- c) The auditing or independent examination of the statements of account of the charity;
- d) The transmission of the statements of account of the charity to the Commissioners; and
- e) The preparation of an Annual Report and its submission to the Commissioners.
- f) The preparation of an Annual Return with Statement of Accounts and its submission to the Commissioners.

22. General power to make regulations

The Trustees may from time to time make regulations for the management of the charity and for the conduct of their business and governance, including

- a) The calling of meetings;
- b) Methods of making decisions in order to deal with cases or urgency when a meeting is impractical;
- c) The deposit of money at a bank;
- d) The custody of documents; and
- e) The keeping and authenticating of records. (If regulations made under this clause permit records of the charity to be kept in electronic form and require a trustee to sign the record, the regulations must specify a method of recording the signature that enables it to be properly authenticated).
- f) The appointment of a Clerk.

The Trustees must not make regulations or policies which are inconsistent with anything in this deed.

23. Disputes

If a dispute arises between the Trustees about the validity or propriety of anything done by the charity Trustees under this deed, and the dispute cannot be resolved by agreement, the Trustees party to the dispute must first try in good faith to settle the dispute by mediation before resorting to litigation.

24. Registered particulars

The Trustees must notify the Commission promptly of any changes to the charity's entry on the Central Register of Charities.

25. Bank account

Any bank or building society account in which any of the funds of the charity are deposited must be operated by the Trustees and held in the name of the charity. Unless the regulations of the Trustees make other provision, all cheques and orders for the payment of money from such an account shall be signed by at least two Trustees.

MANAGEMENT OF PROPERTY

26. Statutory Powers

Nothing in this Deed restricts or excludes the exercise by the Trustees of the powers given by the Trustee Act 2000 as regards investment, the acquisition or disposal of land, and the employment of agents, nominees and custodians.

27. Powers

- a) The Trustees may exercise the power to sell, lease, or otherwise dispose of all or any part of the property belonging to the charity in order to further the objects of the charity. In exercising this power the Trustees must comply with the appropriate sections of the Charities Act 2016.
- b) The Trustees shall ensure that any lease or letting of property meets the legal requirements of the Rent Act (including covenants).
- c) The Trustees shall keep in repair and insure to the full value thereof against fire and other usual risks all the buildings, property and land of the Charity not required to be kept in repair and insured by the lessees or tenants thereof and shall suitably insure in respect of public liability.
- d) Unless the Commissioners otherwise direct the clear proceeds of any such sale as aforesaid shall be invested in trust for the Charity.
- e) The Trustees shall first pay out of the income of the Charity the cost of maintaining the property of the Charity (including the repair and insurance of any buildings thereon) and all other charges and outgoings payable in respect thereof and all the proper costs, charges and expenses of and incidental to the administration and management of the Charity.

APPLICATION OF INCOME

28. Application of income

Subject to payment of the expenses the Trustees shall apply the income of the Charity as follows:-

- a) One half of the said income shall be paid to the Parochial Church Council of St. Mary's, Brixton, for the upkeep, repair and insurance against fire of the fabric of the Parish Church of Brixton
- b) The remaining half of the said income shall be applied in relieving either generally or individually persons resident in the area of benefit who are in conditions of need, hardship or distress by making grants of money or providing or paying for items, services or facilities calculated to reduce the need, hardship or distress of such persons. In exceptional cases the Trustees may grant relief to persons otherwise eligible therefore who are resident immediately outside the said area of benefit but in the opinion of the Trustees ought nevertheless for sufficient reason be treated as if resident therein or who are located for the time being within the area of benefit;
- c) If and in so far as income in any year is not required for relief in need in accordance with clause 28 (b) the Trustees may apply the same as they think fit for any charitable purpose for the general benefit of the inhabitants of the said area of benefit.

In applying income for relief in need the Trustees may pay for such items, services or facilities by way of donations or subscriptions to institutions, charities or organisations which provide or undertake in return to provide such items, services or facilities for such persons.

GENERAL PROVISIONS

29. Application of income from financial investments and property

The income from financial investments and property of the charity must be applied solely towards the promotion of the objects.

- a) A charity Trustee is entitled to be reimbursed out of the property of the charity or may pay out of such property reasonable expenses properly incurred by him or her when acting on behalf of the charity.
- b) A charity Trustee may benefit from Trustee Indemnity insurance cover purchased at the charity's expense in accordance with, and subject to the conditions in the appropriate section of the Charities Act 2016.

None of the income or property of the charity may be paid or transferred directly or indirectly by way of dividend, bonus or otherwise by way of profit to any charity Trustee.

30. Appropriation of benefits

The appropriation of the benefits of the Charity shall be made by the Trustees at meetings of their body and not separately by any individual Trustee or Trustees: Provided that the Trustees from time to time may appoint two or more members of their body to be a committee for dealing with any cases of emergency but all acts and proceedings of such committees shall be reported in due course to the Trustees.

31. Expenses of management

The Trustees shall first defray out of the income of the Charity the cost of maintaining the property of the Charity (including the repair and insurance of any buildings thereon) and all other charges and outgoings payable in respect thereof also to include any charges and costs incurred in the management of the Charity's investment portfolio and all the proper costs, charges and expenses of an incidental to the administration and management of the Charity.

32. Benefits and payments to charity Trustees and connected persons

32.1. General Provisions

No charity trustee or connected person may:

- a) Buy or receive any goods or services from the charity on terms preferential to those applicable to members of the public;
- b) Sell goods, services or any interest in land to the charity;
- c) Be employed by, or receive any remuneration from, the charity;
- d) Receive any other financial benefit from the charity;

Unless the payment or benefit is permitted by clause 32.2 or authorised by the court or the Charity Commission ("the Commission"). In this clause a "financial benefit" means a benefit, direct or indirect, which is either money or has a monetary value.

32.2. Scope and powers permitting trustees' or connected persons' benefits

- a) A charity Trustee or connected person may receive a benefit from the charity in the capacity of a beneficiary of the charity provided that a majority of the Trustees do not benefit in this way.
- b) A charity Trustee or connected person may enter into a contract for the supply of services, or of goods that are supplied in connection with the provision of services, to the charity where that is permitted in accordance with, and subject to, the conditions in the appropriate section of the Charities Act 2016.
- c) Subject to clause 32.3 a charity Trustee or connected person may provide the charity with goods that are not supplied in connection with services provided to the charity by a charity Trustee or connected person.
- d) A charity Trustee or connected person may receive interest on money lent to the charity at a reasonable and proper rate which must not be more than the Bank of England bank rate (also known as the base rate).
- e) A charity Trustee or connected person may receive rent for premises let by the Trustee or connected person to the charity. The amount of the rent and the other terms of the lease must be reasonable and proper. The charity Trustee concerned must withdraw from any meeting at which such a proposal or the rent or other terms of the lease are under discussion.
- f) A charity Trustee or connected person may take part in the normal trading and fundraising activities of the charity on the same terms as members of the public.

32.3. Payment for the supply of goods only – controls

The charity and its charity Trustees may only rely upon the authority provided by clause 32.2(c) if each of the following conditions is satisfied:

- a) The amount or maximum amount of the payment for the goods is set out in an agreement in writing between the charity and the charity Trustee or connected person supplying the goods (“the supplier”) under which the supplier is to supply the goods in question to or on behalf of the charity.
- b) The amount or maximum of the payment for the goods in question does not exceed what is reasonable in the circumstances for the supply of the goods in question.
- c) The other charity Trustees are satisfied that it is in the best interests of the charity to contract with the supplier rather than someone who is not a charity Trustee or connected person. In reaching that decision the charity Trustees must balance the advantage of contracting with a charity Trustee or connected person against the disadvantages of doing so.
- d) The supplier is absent from the part of the meeting at which there is discussion of the proposal to enter into a contract or arrangement with him or her or it with regard to the supply of goods to the charity.
- e) The supplier does not vote on any such matter and is not to be counted when calculating whether a quorum of Trustees is present at the meeting.

- f) The reason for their decision is recorded by the charity Trustees in the minutes.
- g) A majority of the charity trustees then in office are not in receipt of remuneration or payments authorised by clause 32.

In clauses 32.2 and 32.3

- a) “charity” shall include any company in which the charity:
 - i. Holds more than 50% of the shares; or
 - ii. Controls more than 50% of the voting rights attached to the shares; or
 - iii. Has the right to appoint one or more Trustees to the Board of the company.
- b) In clauses 32.2 and 32.3, “connected person” includes any person within the definition set out in clause 33 (Interpretation).

33. Interpretation

33.1. In this deed:

All references to particular legislation are to be understood as references to legislation in force at the date of this deed and also to any subsequent legislation that adds to, modifies or replaces that legislation.

33.2. “Connected person” means:

- a) a child, parent, grandchild, grandparent, brother or sister of the Trustee;
- b) the spouse or civil partner of the Trustee or of any person falling within clause 33.2(a)
- c) a person carrying on business in partnership with the Trustee or with any person falling within clauses 33.2(a) or 33.2(b)
- d) an institution which is controlled –
 - i. by the Trustee or any connected person falling within clauses 33.2(a), 33.2(b) and 33.2(c); or
 - ii. by two or more persons falling within clause 33.2(d)(i), when taken together.
- e) A body corporate in which –
 - i. The charity Trustee or any connected person falling within clauses 33.2(a), 33.2(b) and 33.2(c) has a substantial interest; or
 - ii. Two or more persons falling within clause 33.2(e)(i) who, when taken together, have a substantial interest.

The appropriate sections of the Charities Act 2016 apply for the purposes of interpreting the terms used in clause 32.2.

34. Questions under Scheme

Any question as the construction of this Scheme or as to the regularity or the validity of any acts done or about to be done under this Scheme shall be determined by the Commissioners upon such application made to them for the purpose as they think sufficient.

35. Amendment of trust deed

The Trustees may amend the provisions of this deed, provided that:

- a) No amendment may be made to clause 1 (Objects), clause 10 (Duty of care and extent of liability), clause 28 (Application of income), clause 29 (Application of income from financial investments and property) and clause 32 (benefits and payments to charity trustees and connected persons), clause 36 (Dissolution) or this clause without the prior consent in writing of the Commission; and
- b) No amendment may be made that would have the effect of making the charity cease to be a charity at law.
- c) No amendment may be made to alter the objects if the change would undermine or work against the previous objects of the charity.

Any amendment of this deed must be made by deed following a decision of the Trustees made at a special meeting.

The Trustees must send to the Commission a copy of the deed effecting any amendment made under this clause within three months of it being made.

Varied from the Order of the Commissioners dated 7th February 1996, by a resolution of the Brixton Feoffee Trustees at their meeting on 1st July 2019.

IN WITNESS of this deed the parties to it have signed below

1. Signed as a deed by:

1(a) *M. Landricombe*

On this 1st (day) of July (month) 2019 (year)

1(b) Witness's name:

R.S. Axell

Witness's address:

15 Cherry Tree Drive, Brixton, Plymouth. PL8 2DD

2. Signed as a deed by:

2(a) *J. Penney-Cousins*

On this 1st (day) of July (month) 2019 (year)

2(b) Witness's name:

R. Axell

Witness's address:

15 Cherry Tree Drive, Brixton, Plymouth. PL8 2DD

3. Signed as a deed by:

3(a) *E. Hitchins*

On this 1st (day) of July (month) 2019 (year)

3(b) Witness's name:

R. Axell

Witness's address:

15 Cherry Tree Drive, Brixton, Plymouth. PL8 2DD

4. Signed as a deed by:

4(a) *B. Huxtable*

On this 1st (day) of July (month) 2019 (year)

4(b) Witness's name:

R. Axell

Witness's address:

15 Cherry Tree Drive, Brixton, Plymouth. PL8 2DD

5. Signed as a deed by:

5(a)

On this (day) of (month) (year)

5(b) Witness's name:

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Witness's address:

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