



# THE RUTLISH FOUNDATION

## Merton

*Registered Charity Number 1043558*

**Rutlish School, Watery Lane, Merton Park, London SW20 9AD**

The Charity Trustee is The Rutlish Foundation Trustee Limited, a company limited by guarantee, Company Number: 12372913, also at the above address.

Tel: 07913 987 006

E-mail: [rutlishfoundation@gmail.com](mailto:rutlishfoundation@gmail.com)

Website: <http://www.rutlishfoundation.org.uk/>

May 2022

### To whom it may concern

### Consultation on proposed changes to the Rutlish Foundation Scheme

The Rutlish Foundation (the “**Foundation**”) is a charity (charity number 1043558). It awards grants principally to persons under 25 mainly in higher education who were born or resident within the ancient parish of Merton or who attended Rutlish School. It provides the land, buildings and other support to Rutlish School and its students.

The Foundation is governed by a Scheme dated 22 August 1994 (as amended on 10 March and 11 December 2020) (the “**scheme**”). The trustee of the Foundation (the “**trustee**”) is The Rutlish Foundation Trustee Limited (company number 12372913) which is managed by a board of directors (“the **directors**”).

In line with Charity Commission guidance, the directors have carried out a review of the Foundation’s objects to ensure that they are appropriate, relevant and up to date. The directors consider that generally the objects remain appropriate but are proposing to make some amendments to clarify and bring them up to date. The Charity Commission have asked Directors to carry out a consultation of interested parties to help inform their decision-making on whether these amendments are desirable and the conditions for amending the scheme have been met.

The amendments are relatively minor, and their effect would be to:

- clarify the drafting of the objects;
- maximize the benefit the Foundation provides by reducing the length of time a beneficiary is required to have spent at Rutlish School from 3 years to 1 year; and
- adapt the objects to modern circumstances by referring to a joint 6th form (currently known as RR6) and changing funding models that may apply to Rutlish School.
- allow all students in RR6, who sit side by side in classes, to benefit from grants awarded for higher education including the girls.

The directors consider that the changes are in line with the spirit of the gifts comprised in the Scheme. They consider that the underlying intention of the benefactors to the Foundation was to promote the education of persons in the area of benefit in need of financial assistance and to advance education at Rutlish School. The proposed changes to the objects of the Foundation will ensure that the purposes remain relevant in a modern context and that the Foundation can maximize the benefit to beneficiaries in line with the spirit of the gifts comprised in the Scheme.

Please consider the proposed amendments to the Scheme set out in detail below and let us know whether you support them or have any concerns with or objections to the proposed amendments.

**Responses to this consultation should be sent by 11 July 2022 to:**

- [rutlishfoundation@gmail.com](mailto:rutlishfoundation@gmail.com) or

- **The Rutlish Foundation**, c/o Rutlish School, Watery Lane, Merton Park, London SW20 9AD.

If you have any questions, please contact the clerk to the Foundation as above or on 07913 987 006 (not Rutlish School).

**Proposed amendments to the Objects of the Foundation**

**The objects of the Foundation are currently:**

“11. Application of income.

- (1) *Subject to payment of the expenses aforesaid the Trustee shall apply the income of the Charity in promoting the education (including social and physical training) first of persons under the age of 25 years and thereafter of persons over that age all of whom were born or are resident in the area of the Ancient Parish of Merton or who have at any time attended as a pupil at Rutlish School for a period of at least three years and who are in need of financial assistance and in particular but without prejudice to the generality of the foregoing -*
- a) *in awarding to such persons scholarships, exhibitions, bursaries, maintenance allowances or grants tenable at any school, university, college of education, or other institution of further (including professional and technical) education approved for the purpose by the Trustee;*
  - b) *in providing financial assistance, outfits, clothing, tools, instruments or books to assist such persons to pursue their education (including the study of music and other arts), to undertake travel in furtherance thereof, or to prepare for or enter a profession, trade, occupation or service on leaving school, university, or other educational establishment;*
  - c) *in providing such special benefits of any kind not normally provided by the local education authority for the School as may be agreed by the Trustee, which the Governors of the School are unable to provide from the School's budget share or other monies.”*

**The amended objects proposed by the directors are as follows:**

“11. Application of income. (1) *Subject to payment of the expenses aforesaid the Trustee shall apply the income of the Charity in:*

- (i) *promoting the education (including social and physical training) of persons in need of financial assistance; first of persons under the age of 25 years and thereafter of persons over that age, who were born or are resident in the area of the Ancient Parish of Merton, or who have at any time attended for a period of at least one academic year as a student at Rutlish School or any combined 6th form which the School participates in, in particular, but not exclusively, by:*
  - a) *awarding to such persons scholarships, exhibitions, bursaries, maintenance allowances or grants tenable at any school, university, college of education, or other institution of further (including professional and technical) education; and*
  - b) *providing financial assistance, outfits, clothing, tools, instruments or books to assist such persons to pursue their education (including the study of music and other arts), to undertake travel in furtherance*

*thereof, or to prepare for or enter a profession, trade, occupation or service on leaving school, university, or other educational establishment; and*

- (ii) *advancing the education of pupils at Rutlish School by providing facilities, equipment and other support for education additional to that provided by the governors of the School.”*

## **Explanation of the proposed amendments**

There are several reasons for the proposed amendments.

First, the current drafting creates some uncertainty about the relationship between:

- the requirements in the main part of the objects that the Foundation must provide benefit to individuals who are in need of financial assistance and who were born in or are resident in the Ancient Parish of Merton, or have been pupil at Rutlish School for at least three years; and
- the reference in paragraph ‘c’ to providing for Rutlish School benefits not normally provided by the local education authority.

What is unclear is the extent to which the references to supporting persons in need of financial assistance and the restrictions on supporting persons born or resident in the area of benefit or who have been a pupil at Rutlish School for three years may place limitations on the type of support the Foundation can provide to Rutlish School. This appears to be a drafting issue as the directors do not believe it was intended that the limitations on the persons the Foundation can support should apply to the provision of benefits to Rutlish School under paragraph ‘c’, as this would restrict the support the Foundation could provide to Rutlish School for the advancement of education. The directors have identified that a simple amendment to the objects by setting out current paragraph ‘c’ as a standalone object will remove any uncertainty and improve the drafting and clarity of the objects.

In addition:

- To ensure that the Foundation can provide support to the beneficiaries who are most in need, it is proposed that the requirement to have been a pupil at Rutlish School for three years should be reduced to one year.
- Rutlish School currently participates in a joint 6<sup>th</sup> form known as RR6 with Ricards Lodge High School. It is considered that the objects should be widened to enable the Charity to provide support to all students who have attended the joint 6<sup>th</sup> form including the girls who are technically Ricards Lodge High School students, so that these students would also be eligible for higher education grants from the Foundation.
- The removal of a reference to benefits provided by the local education authority would ensure that the objects remain relevant to any funding model for Rutlish School whether or not tied to local authority funding.
- Other minor amendments are intended to ensure that the objects provide a clear modern statement of the purpose of the Foundation.

## **Basis for making the proposed amendments - cy-près circumstances**

Section 62 of the Charities Act sets out how original purposes of a charitable gift can be altered under what is known as cy-près arrangement. The circumstances include, at section 62(1)(e)(iii), where the original purposes have “*ceased in any other way to provide a suitable and effective method of using the property available by virtue of the gift, regard being had to the appropriate considerations*”. The “*appropriate considerations*” are listed in section 62(2) as: “(a) (on the one hand) *the spirit of the gift concerned, and (b) (on the other) the social and economic circumstances prevailing at the time of the proposed alteration of the original purposes.*”.

The directors of the Trustee consider that a cy-près situation has arisen under section 62(1)(e)(iii) and that the amendments described above are needed to ensure that the objects provide a suitable and effective method of using the property of the Foundation and best meeting the needs of beneficiaries.

Yours Sincerely

The Directors of the Trustee of the Rutlish Foundation