

# **ARCHDIOCESE OF BIRMINGHAM DIOCESAN EDUCATION SERVICE**

## **APPOINTING LEADERS DIOCESAN ADVISORY RIGHTS**

### **Guidance to the Governing Bodies of Catholic VA Schools in the Archdiocese of Birmingham**

#### **INTRODUCTION**

The *School Staffing (England) Regulations 2009* and the *Guidance on Managing Staff Employment in Schools 2009* explain what is required and expected of the Governing Body as employer, and the Local Authority (LA) and the Diocese in role as professional advisers.

The Regulations and Guidance clarifies the following points:

- The LA does not have any statutory entitlement to advise the Governing Body in relation to the appointment and dismissal of any teachers (e.g. headteachers and deputy headteachers). However, the LA may do so where, and to the extent that an agreement between the Governing Body and the LA provides for it to do so.
- Any agreement between the Governing Body and the LA must be in writing and give details of what advisory entitlements the LA has been given.
- The Governing Body may terminate the agreement with the LA by giving notice in writing.
- Any advice offered by the LA, in accordance with the agreement, must be considered by the Governing Body when reaching a decision.
- All advice offered by the LA and decisions made by the Governing Body in light of that advice should be fully documented.
- The Diocesan Authority does not have any statutory entitlement to advise the Governing Body in relation to the appointment and dismissal of any teachers (e.g. headteachers and deputy headteachers). However, it is recommended that Governing Bodies agree in writing with the Diocesan Authority to give it the same advisory rights as the LA.
- If an agreement between the Governing Body and the Diocesan Authority is in place, any advice offered should be considered by the Governing Body.
- All advice offered by the Diocesan Authority and decisions made by the Governing Body in the light of that advice should be fully documented.

## **DIOCESAN CONTEXT**

The need to seek advice from the Diocesan Authority does not exclusively find its origins in *The School Staffing (England) Regulations 2009* and the *Guidance on Managing Staff Employment in Schools 2009*. This section pulls together other advice and guidance from a variety of sources to clarify obligations and expectations on Governing Bodies of Diocesan Catholic schools, under both civil and Canon Law.

Diocesan Catholic VA school buildings are owned by the Diocesan Trustees of the Archdiocese of Birmingham and the provision of education within the school buildings is maintained using the budget delegated by the relevant Local Authority.

Under **Canon Law** the Archbishop has the authority within his Diocese to approve that a school may be designated as and formally called a Catholic school.

*Canon 803: "No school, ..., may bear the title 'Catholic school' except by the consent of the competent ecclesiastical authority"*

The Archbishop and Diocesan Trustees of the Archdiocese of Birmingham delegate authority to the Diocesan Education Service (DES) to represent their interests and to provide advice to the Governing Body (in particular the Foundation Governors) on the process of recruitment, selection and appointment of a headteacher in a Diocesan Catholic school.

*Canon 806: "The diocesan bishop has the right to watch over and inspect the Catholic schools situated in his territory, ... He also has the right to issue directives concerning the general regulation of Catholic schools ... Those who are in charge of Catholic schools are to ensure, under the supervision of the Ordinary, that the formation given in them is, in its academic standards, at least as outstanding as that in other schools in the region."*

Under Canon Law, Catholic VA schools in the Archdiocese of Birmingham must operate in accordance with the Trust Deed of the Archdiocese of Birmingham. Civil law requires schools to be run in accordance with their Instrument of Government, which states that the school operates under the provisions of the Trust Deed of the Archdiocese of Birmingham.

The provisions of **The Trust Deed** state:

- *Clause 2*

*The Trust is exclusively for the purposes of:*

- *2.7 The provision, maintenance and upkeep of schools and colleges for the general education both religious and secular or religious or secular of children and young persons of the said Church*
- *2.14 Generally for any such charitable purpose or purposes as in the opinion of the Archbishop may be conducive to the advancement or maintenance of the Catholic Religion in the Diocese.*

- *Clause 4*

*All charitable works of whatever nature ... shall be subject to the absolute control of the Archbishop and shall be carried on and in accordance with his directions in all respects.*

**The Instrument of Government** states:

- *4. The school is founded by and is part of the Catholic Church. The school is to be conducted as a Catholic school in accordance with Latin Rite Canon Law and the teachings of the Catholic Church and in accordance with the Trust Deed of the Archdiocese of Birmingham and in particular:*
  - a. *Religious education is to be in accordance with the teachings, doctrines, discipline, general and particular norms of the Catholic Church.*
  - b. *Religious worship is to be in accordance with the rites, practices, discipline and liturgical norms of the Catholic Church.*
  - c. *At all times the school is to serve as a witness to the Catholic Faith in Our Lord Jesus Christ.*
- *5. The school operates under the provisions of the Trust Deed of the Archdiocese of Birmingham.*

**The School Governance (Constitution)(England) Regulations 2007** state:

- *8. (1) In these Regulations –*
  - *“foundation governor” means a person who is appointed as a governor otherwise than by the Local Authority and who*
    - a) *is appointed for the purposes of securing that the character of the school, including whether the school has a particular religious character, such religious character is preserved and developed, and*
    - b) *where the school has a foundation is appointed for the purpose of securing that the school is conducted in accordance with the foundation’s governing documents, including, where appropriate, any Trust Deed relating to the school.*

The Bishops Conference for England and Wales **Memorandum on Appointment of Teachers to Catholic Schools** states:

- *Governors are required to fulfil their statutory responsibilities to preserve and develop the Catholic character of the school in relation to the appointment of teachers.*
- *Governors ... are the employer of the teachers, to whom they should give clear guidelines about the Catholic character of education and life in their school.*

- *Governors must issue the appropriate contract of employment and associated documentation as published by the Catholic Education Service.*
- *The preservation and development of the quality and distinctive nature of Catholic schools depends on the faith, practice and commitment of the teachers in the schools, working with their Governing Bodies.*
- *The posts of headteacher, deputy headteacher and head or subject leader of Religious Education are to be filled by baptised and practising Catholics*
- *Governing Bodies must agree advisory rights for the Diocesan Director (of Schools) and Director of Children's Services of their Local Authority or their representative in relation to all appointments at the school or, more usually, to the appointment of headteachers and deputy headteachers alone. .*

In the document ***Catholic Schools and the Definition of a Practising Catholic*** a practising Catholic is defined thus:

- *For the appointment to the office of foundation governor or to key posts in a Catholic school, a 'practising Catholic' is to be defined as someone who has been sacramentally initiated into the Catholic Church and who adheres to those substantive life choices which do not impair them from receiving the sacraments of the Church and which will not be in anyway detrimental or prejudicial to the religious ethos and character of the school. Inspired by the Gospel and sustained by God's grace a 'practising' Catholic will give sincere external expression to their interior faith through specific religious, moral and ethical behaviour which is in accordance with the teaching of Christ and the Catholic Church.*

*[Father Marcus Stock DSC Archdiocese of Birmingham 2009]*

In summary, we hope the Governing Body would clearly understand the need to seek the advice and guidance of the Diocese and LA in order to fulfil their responsibilities and be accountable for decisions made.

## **DIOCESAN EDUCATION SERVICE**

In light of the authority delegated to the DES by the Archbishop and Trustees of the Archdiocese of Birmingham, the DES will provide advice and guidance on:

- whether or not an applicant meets the basic essential requirement of being a practising Catholic suitable to be appointed as a headteacher of a Catholic school;
- whether or not an applicant has demonstrated through the selection process appropriate evidence that he / she has the faith commitment, qualifications, knowledge, understanding, skills, experiences and personal qualities to be appointed as a headteacher of a Catholic school, to secure its Catholic character and continuous improvement in standards and achievement;
- whether or not the references, and in particular the priest's reference, provides sufficient support to the teacher's application to be appointed as the headteacher of a Catholic school;

- any other matters that are raised during the whole selection process that are relevant to the decision-making responsibilities of the Governing Body, in accordance with the Instrument of Government, the Bishops Memorandum and relevant statutory instruments;
- the particular responsibilities of foundation governors bound by their signed statement regarding diocesan compliance and their duties ~~to~~ secure the Catholic character of the school and uphold the Trust Deed in Regulation;
- the implications of any decision or action taken by the Governing Body with respect to the appointment of a headteacher.

**Agreement to give Advisory Rights to the DES**

On behalf of the full Governing Body of .....

I agree to give advisory rights as outlined above to the Diocesan Education Service (DES) representing the Archbishop of Birmingham and the Diocesan Trustees.

Signed:

Role:

Date: