



Archdiocese of Birmingham School Business Manager Conference 2019

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What does it mean to be a School Business Manager in a Catholic School?

- › What is a Catholic school?
- › Why is a Catholic school different?
- › What legislation underpins these differences?
- › Any questions?



St. John Paul II 'Catechesi Tradendae' 69

“Together with and in connection with the family, the school provides catechesis with possibilities that are not to be neglected... This, of course, concerns first and foremost the Catholic school: it would no longer deserve this title if, no matter how much it shone for its high level of teaching in non-religious matters, there were justification for reproaching it for negligence or deviation in strictly religious education... The special character of the Catholic school, the underlying reason for it is precisely the quality of the religious instruction integrated into the education of the pupils.”



What is a Catholic school?

- ▶ A school controlled by the Catholic Church and recognised as a Catholic school by the Diocesan Bishop, who is the “appropriate diocesan authority” for the purposes of the Education Acts
 - ❖ *Sections 55 & 142 School Standards & Framework Act 1998*
- ▶ A Catholic school will place Christ at the Centre of all that it does and follow the teachings of the Catholic Church, observing four fundamental characteristics:
 - ▶ the dignity of human life; the common good; subsidiarity and solidarity
- ▶ A school is designated as having a religious character for the purposes of the Education Acts if an order so designating the school has been made by the Secretary of State
 - ❖ *Section 69 and Schedule 19 School Standards & Framework Act 1998*



What are the criteria for designation?

- ▶ The school is conducted in accordance with the tenets of the Catholic Church
- ▶ Some or all of the premises occupied by the school are provided on trust in connection with the provision of education by the Catholic Church (or the Religious Order)
- ▶ At least one member of the governing body is a person appointed to represent the interests of the Church (or the Religious Order)
- ❖ *Sections 69(3) and 124A School Standards & Framework Act 1998 and The Religious Character of Schools (Designation Procedure) (Independent Schools) (England) Regulations 2003*



What responsibilities does the Bishop have?

- › Provision and future development of excellent Catholic education for baptised Catholic children in the Diocese
- › Oversight of high educational standards, progress and outcomes, especially in RE
- › Inspection of religious life and the teaching of RE
- › Development of Catholic teachers and leaders
- › Planning of school place provision
- › Engagement with regulatory bodies
- › Power to issue directives regulating Catholic schools
- › Visitation rights



What are the sources of guidance?

- › Birmingham Diocesan Education Service
- › Catholic Education Service
- › Churchmarketplace
- › Memorandum of Understanding Between the Catholic Church and DfE



What legal liability does the Diocese have?

- ▶ Archbishop and Diocesan Trustees are not public bodies therefore not subject to public law, including Freedom of Information Act 2000 (but are subject to Data Protection Act 2018)
- ▶ Not contracting authorities for the purposes of the Public Contract Regulations 2015
- ▶ Diocesan land is held privately by the Diocesan corporate trustee (Birmingham Diocesan Trust (charity no. 23416))
- ▶ Academy Trust Member liability limited to £10
- ▶ Diocesan Trustees are charity trustees and therefore subject to Charities Act 2011 and charity law



Catholic Distinctiveness



Governance

- ▶ VA Schools – Instrument of Government
 - ❖ *Section 37 & Schedule 12 School Standards & Framework Act 1998, Section 20 Education Act 2002, Regulation 20 School Governance (Constitution) (England) Regulations 2012*
- ▶ Academies – Articles of Association
 - ❖ *Section 18 Companies Act 2006, Section 1 Charities Act 2011*
- ▶ Scheme of Delegation
- ▶ Foundation Governors, appointed by the Bishop, must exceed all other Governors by at least two
 - ❖ *VA – Regulation 14 School Governance (Constitution) (England) Regulations 2012*
 - ❖ *Academies – Articles 46 and 50*



Appointment and Removal of Governors

- ▶ CES Code of Practice reinforce Nolan Principles:
 - ▶ Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty, Leadership
- ▶ Appointments made using a nomination process which addresses eligibility as well as priest reference – all Governors undertake to fulfil the Catholic mission of the school
 - ❖ *VA – Section 69 School Standards & Framework Act 1998*
 - ❖ *Academy – Articles 45A and 103*
- ▶ Removal at the absolute discretion of the Bishop
 - ❖ *VA – Regulation 20 School Governance (Constitution) (England) Regulations 2012*
 - ❖ *Academy – Article 66 but beware of sections 168 and 169 Companies Act 2006*



Staffing

- ▶ All staff are employed by either the Governing Body (VA) or the Academy Trust Company
- ❖ *Section 55 School Standards & Framework Act 1998*
- ▶ All Senior Leaders (including Head of RE and any Lay Chaplain) must be practising Catholics
- ▶ Other leadership posts (teaching and non teaching) must be committed Catholics (in effect reserve posts in respect of which there is a genuine occupational requirement for the person holding that position to embody the ethos and uphold the values of the Catholic mission of the School)
- ❖ *Sections 55 & 60 School Standards & Framework Act 1998, Section 37 Education & Inspections Act 2006 and Section 9 Equality Act 2010*



Diocesan Advisory Rights

- ▶ Diocesan Education Service must be informed of any vacancy in any leadership or reserve post and must be invited to take part in any selection panel and/or interview
- ❖ *Paragraph 28 of Schedule 19 School Standards & Framework Act 1998*
- ▶ VA Catholic schools and Catholic Academies must use CES model contracts and policies, which include a commitment to adopt the national agreements (e.g. Burgundy Book) and to recognise the national unions



Admissions

- ▶ Governing Body/Academy Trust Company is the “admissions authority” for the purposes of the Admissions Code
 - ❖ *Section 88 School Standards & Framework Act 1998*
- ▶ Admissions Criteria are set by the Governing Body and published in the school’s admissions policy, which must comply with the Admissions Code
- ▶ A Catholic school has an overriding duty to offer places to Catholics first and therefore priority must be given to baptised children in the oversubscription criteria – no change to admissions with Diocesan approval
 - ❖ *Schedule 3 School Admissions Regulations 2012*
- ▶ Schools required to obtain a Certificate of Catholic Practice for each pupil, the form of which is determined & supplied by the Diocesan Education Service



Safeguarding, Curriculum & Standards

- ▶ All schools are required to teach RE and ensure pupils take part in collective worship which for Catholic schools must be in accordance with the Religious Education Curriculum Directory
- ▶ This requires 10% of the teaching week to be spent on RE for Key Stages 1 – 4 and 5% for Key Stage 5
- ❖ *Sections 69 – 71 & Schedule 19 School Standards & Framework Act 1998*
- ❖ *Clause 2V of the Supplemental Funding Agreement*
- ▶ Bishop has a canonical responsibility to inspect Diocesan schools, usually every 5 years and a statutory power to inspect the provision of RE
- ❖ *Section 48 Education Act 2005*



Regulatory Matters

- ▶ Diocesan Education Service must be consulted before any “significant change” (or prescribed alteration) is contemplated (notwithstanding any formal rights of the Diocese to be consulted and/or appeal against any decision), namely: expansion/enlargement, change of age range, change to become co-ed or single sex, amalgamation, closure or opening a new school and conversion to academy status
- ❖ *Section 18 Education and Inspections Act 2006, The School Organisation (Prescribed Alterations to Maintained Schools) (England) Regulations 2013 and the Significant Changes to Academies Guidance*
- ❖ *Section 3(4)(a) Academies Act 2010*
- ▶ It is not possible for any school to gain, lose or change a religious character, this would be a closure and opening of a new school.



Land

- All land upon which school buildings are located must be owned by the Diocesan Trustees (or Religious Order) and if necessary transferred by the LA to the Diocese (by way of statutory transfer) – schools have no power to dispose of Diocesan land
 - ❖ *Paragraph 4 Schedule 3 School Standards & Framework Act 1998*
- Playing fields may be owned either by the LA (VA) or the Academy Trust Company
- Any public value in land held by the Diocese must be accounted for on disposal
 - ❖ *Schedule 21 School Standards & Framework Act 1998*
 - ❖ *Part 3 Schedule 1 Academies Act 2010*
- Diocesan Trustees must give 2 years notice of any intention to terminate the school's use of land held by the Diocesan Trustees
 - ❖ *Section 30(10) & (11) School Standards & Framework Act 1998*
 - ❖ *Clause 24 Church Supplemental Agreement*



Capital and Funding

- ▶ VA - LA has a duty to maintain (defray all revenue costs), Governing Body is responsible for all capital expenditure but can claim grant from SoS (up to 90% and on an exceptional basis 100%)
- ❖ *Section 22 and Schedule 3 School Standards & Framework Act 1998*
- ▶ Academy – SoS enters into “academy arrangements” with Academy Trust Company under which the SoS provides both revenue and capital funding
- ❖ *Section 1 Academies Act 2010*
- ▶ Diocesan Trustees may levy schools to support services “associated with securingreligious character and ethos, which only the diocese can provide”
- ❖ *Section 3.10.20 Academies Financial Handbook*



Any questions?



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