

New MAC documentation- what's changing, why, and who is going to pay?

The DfE approached the DES in 2016 to say that the DfE would not permit any future conversions of schools in the Birmingham Archdiocese on the basis of the specially tailored suite of documents which had been agreed at the outset of academy conversions in Birmingham.

The DfE stated that not only would all future conversions have to be based on the standard documents available from the DfE website, but that all existing MACs should transfer to the new documents, as soon as possible.

The RSC has told the DES that where additional VA schools are joining a MAC, funding should be sought from the MAC expansion fund detailed on the DfE website. Where MACs are merging, with no additional VA schools joining, the DES will work with MACs to identify funding.

You will also be aware that the DES has proposed some suggested groupings for schools whereby larger MACs are likely to be created allowing for economies of scale, and improving chances of obtaining additional government funding.

The Headlines

| OLD | NEW |
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| Articles of Association for the MAC The Articles for each MAC differ but are based on a special Birmingham Precedent. | Articles of Association for the MAC The Articles for all future MACs will follow the standard articles on the DfE website, into which Birmingham specific details have been inserted. |
| A Master funding agreement between the DfE and the MAC, based on a special Birmingham precedent | A Master funding agreement between the DfE and the MAC as set out on the DfE website |
| A Supplemental funding agreement between the DfE and the MAC in relation to each Academy, based on a special Birmingham precedent | A Supplemental funding agreement between the DfE and the MAC in relation to each Academy as set out on the DfE website |
| 125 year lease between the Diocese and the MAC for each Academy | Church supplemental agreement as set out on the DfE website but with capability for the MAC to enter into RPA arrangements rather than insurance |
| A Scheme of Delegation of about 140 pages | A much shortened and more straightforward Scheme of Delegation illustrating the responsibilities of the DES, the directors of the MAC the members of the Local Governing Body and the Principal |

In addition, there may need to be an exchange of letters between the Diocese and academy relating to allocation of land between parish and academy

Main points of difference

Articles of Association for the MAC

- Barberi and Newman Academy Trust (which is a company) will no longer be the Founder Member, as that adds an unnecessary extra layer of administration. Instead, the Founder Members will be the Director of the DES, The Diocesan Treasurer and the Director of Education at the DES (these post holders are currently Fr Jonathan Veasey, Deacon David Palmer and Adam Hardy). The Archbishop has the right to appoint further Members as he sees fit
- Directors of the MAC will consist of:-
 - Foundation Directors, appointed by the Archbishop. Foundation directors will still always form a majority of the directors. There will be at least four Foundation Directors.
 - Two Chairs of Local Governing Boards, who will be elected from all Local Governing Body Chairs in the MAC.
 - The Directors may with the consent of the DES appoint Executive Directors, but the number of Directors who are employees of the MAC cannot exceed one third of the Directors. Executive Directors are likely to be called Senior Executive Leaders, and may or may not be a Principal of an Academy, however, see below for DfE's preference against having staff as directors
 - If there are not two Parent Governors on each Local Governing Body in the MAC there should be two Parent Directors.
 - The Directors will have power to co-opt directors for a term of one year
- A big difference is that Principals will not automatically be MAC directors. This is because in larger MACs it would not be feasible to have all Principals on the Board of Directors.
- Another big difference is that there will not automatically be a member or members of staff who are elected as directors. The DfE prefers to have non-staff as directors, their reasoning being that members of staff, as employees of the MAC have a conflict of interest if they are on the Board. In addition, sheer numbers, given the size of some MACs, would prevent having automatic staff directors.
- As a result of these changes, Boards of Directors of MACs are likely in the future to be smaller. There could be as few as six, but that number will increase if there are Executive Directors or Co-opted Directors.
- The Archbishop has a right to appoint up to four additional directors who will be either a DES Associate or a DES officer where the Secretary of State is entitled to serve a Warning Notice or where in the Archbishop's opinion standards or the Catholic life of any Academy have fallen unacceptably low.

Lease being replaced by church supplemental agreement

- The relationship between each Academy and the Diocese, which owns the freehold of the school site will change back to be the same as when the Academy was a VA school. Instead of being a tenant with fixed obligations and rights under a 125 year lease, the Academy will occupy the land by permission of the Diocese. The Church Supplemental agreement, which is made between the Secretary of State for Education, the Diocesan Trustees

the Archbishop and the MAC contains an undertaking to the Secretary of State by the Diocesan Trustees to make the school site available for use by the MAC

- Where any value has been attributed to the previous 125 year leases in the accounts of a MAC, that value will have to be removed from the accounts. MAC Directors will need to flag this change early on with their accountants/auditors as the loss of any value attributed to the lease as an asset may affect the accounts
- An advantage of this form of occupation is that under the church supplemental agreement it will be agreed that the MAC can enter into RPA arrangements in respect of each Academy rather than the Diocese insuring each Academy and charging the cost of that back to the MAC. This should reduce the MAC's expenditure.
- Any lease of any part of an Academy will not be granted by the MAC but will be granted by the Diocesan Trustees, with the MAC directors signing the lease to say they will permit the use by the tenant and that they will receive the rent. There will be a DES policy on the grant of licences and hiring agreements with precedent documents.

The Scheme of Delegation

- The new Scheme is available on the DES website and is 42 pages long, in clear plain language, and it will set out the duties and responsibilities of the DES, the MAC directors and members of Local Governing Bodies.

How will the changes be brought in?

For new MACs it will be easy, the new suite of documents will be used.

For existing MACs there will need to be:

- New articles signed and lodged at Companies House- the Members must pass a special resolution to do so and the consent of the Diocese must be obtained, Members changed by resolution.
- New Master and Supplemental funding agreements signed up with the Department for Education
- A Church Supplemental Agreement signed up with the Department for Education the Archbishop and the Diocese for each existing academy.
- A surrender of the existing lease between the Diocese and the MAC for each academy and the registered title to each lease will need to be closed at the Land Registry. Whilst the formal approval of the Education Funding Agency is required to the technical disposal by the MAC, a general consent solution is being pursued by the Diocese to simplify the procedure and save unnecessary cost
- Directors and Governors will need to sign up to the new, simpler Scheme of Delegation
- If there is no Register of Persons with Significant control for the existing MAC, one will need to be prepared, listing each of the Founder Members and the Archbishop