



Occupation of School Premises

1. Introduction

This document sets out the basis upon which the School occupies the School Premises for the purpose of conducting a Catholic school. It replaces any previous document of this type and may be unilaterally amended or replaced by the Trustees at any time.

The primary responsibility of the Governing Body of a Catholic school is to occupy and conduct the school on behalf of its Trustees and under the supervision of the Archbishop.¹ Traditionally that encompasses the threefold responsibilities of the Governing Body as occupier of the School Premises, proprietor of the undertaking and employer of the staff. This document sets out in more detail the parameters of the first of those three responsibilities. It sets out obligations imposed on the Governing Body, including important specific responsibilities relating to health and safety matters.

The Governing Body is to familiarise itself with the contents of this document and comply with the obligations this document imposes on it, obtaining professional advice as necessary.

2. Definitions

“Archbishop” means the Archbishop of Birmingham.

“Governing Body” means the governing body of a maintained school, independent school, sixth form college or the Board of Directors of a Multi Academy Company.

“School” includes a maintained school, an academy, an independent school and a sixth form college.

“School Premises” means the premises in the ownership of the Trustees and in the occupation of a Governing Body² for the purpose of conducting a Catholic school or otherwise as determined by the Trustees and includes anything constructed or growing on it, amongst which are trees and boundary features.

¹ *Governance of a Catholic School: A Clarification of Roles and Responsibilities for England & Wales*, CES September 2014.

² Some Catholic schools in diocesan trusteeship also occupy land which is not owned by the Trustees. This document does not apply to such land. This may include local authority owned land (typically playing fields). In ex-grant maintained schools, the same categories of land will be owned by the Governing Body. In a few cases (e.g. ex-religious order schools) some land may still belong to a religious order which formerly exercised the trusteeship of the school. In these cases, the diocese or religious order will be able to advise on the particular arrangements on an individual basis.

“Trust Deed” means the Birmingham Diocesan Trust deed dated 3rd July 1931 as amended.

“Trustees” means Birmingham Roman Catholic Diocesan Trustees Registered, a body incorporated under Part 12 of the Charities Act 2011 as trustee of Birmingham Diocesan Trust (Charity Number: 234216)

3. Ownership

Ownership of the School Premises remains vested in the Trustees, and the School Premises are occupied by the Governing Body solely for the purpose of conducting a Catholic school on behalf of the Archdiocese of Birmingham in accordance with canon law and the Trust Deed.³

4. Delegation of Authority

Management of the occupation and use of the School Premises is delegated for the time being by the Trustees to the Governing Body of the School and is subject to any direction given by the Trustees or Archbishop as to the use of the School Premises outside normal school hours.

The Governing Body is to discharge the duties and responsibilities set out in this document. The Trustees will take reasonable steps to ensure the Governing Body’s compliance with the terms of this occupation document and the Governing Body is to afford the Trustees every cooperation to enable the Trustees to do so.

The Governing Body shall not, without obtaining the prior approval, in writing, of the Trustees:

- make any major structural changes or additions or alterations to any buildings which form part of the School Premises;⁴
- let or give up or transfer possession or control of the School Premises or any part of the School Premises;⁵

³ The objects of the general trust on which the schools are held are: *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 members of the said Church.* In one or two schools or pieces of land, slightly different trusts may apply: diocesan advice should be sought on an individual basis if this applies.

⁴ Major structural changes include the addition or removal of buildings from the School Premises, and any change in the footprint or envelope of any building. It also includes substantial alterations within the envelope of existing buildings which would permanently change the educational provision (e.g. converting a hall into classrooms or vice-versa or converting the hospitality suite to a staff room or vice versa) but not smaller changes within the envelope (e.g. reconfiguring toilets). If in doubt, advice should be sought from the Trustees.

⁵ Letting or giving up possession of any part of the school premises only refers to the granting of a lease or licence which gives a third party the right to use part of the premises which is then not used by the School. It **does not** refer to occasional or regular hiring of the School Premises or any part of them by third parties on a non-permanent and non-exclusive basis (e.g. allowing a parish group or a Scout or Brownie pack or a keep fit group to use the school hall on a weekday evening).

- use the School Premises for any purpose other than conducting a Catholic school subject to any direction given by the Trustees or Archbishop as to the use of the School Premises outside normal school hours;

The Governing Body is to notify the Trustees, in writing, if at any time the School no longer requires any part of the School Premises for the purposes of conducting a maintained school and, unless the Trustees determine otherwise, that part shall no longer form part of the School Premises and shall no longer be occupied by the Governing Body but by the Trustees directly or as they alone shall direct.

All monies received from any permitted lettings of the School Premises or any part of them are permitted by the Trustees to be paid direct to the Governing Body.

During its occupation, the Governing Body shall ensure that:

- the School Premises are kept in good repair and condition;
- it engages a suitably qualified building professional, approved by the Trustees, to be responsible for advising the Governing Body in relation to its responsibilities for the School Premises;⁶
- adequate insurance cover is maintained for the School Premises, via participation in the Risk Protection Arrangement established by the Department for Education with the approval in writing of the Trustees, or in the joint names of the Governing Body and the Trustees, which can either be
 - insurance through the D.E Ford or such other insurance broker as is appointed by the Trustees and notified to the Governing Body; or
 - an insurance policy approved by the Trustees adequate to provide for full rebuilding costs of the buildings should they be totally destroyed

A properly authorised officer of the Archbishop or of the Trustees shall have a right of access to the School Premises at any time without notice.

5. Specific Responsibilities relating to Health and Safety

The Trustees consider the Governing Body, whose undertaking is the day to day conduct of the School, to be the dutyholder for the purposes of any relevant health and safety legislation.

If any health and safety duties do rest or remain with the Trustees, the Trustees hereby nominate and appoint the Governing Body to take all steps necessary to discharge that duty, and the Governing Body shall do so on the Trustees' behalf.

The Governing Body is to comply with the requirements set out in the Education & Skills Funding Agency document, 'Terms and Conditions of grant funding for dioceses and non-diocesan voluntary aided schools groups in receipt of school condition

⁶ DfE "Blue Book Guidance" *Capital Funding for Voluntary Aided Schools in England*, Feb 2011.

allocations in financial year 2020-21' which also sets out the responsibilities of Governing Bodies in relation to health and safety⁷.

The Governing Body is to ensure it has appointed a competent person to assist it in undertaking the measures it needs to take to comply with the requirements and prohibitions imposed by the relevant statutory provisions.⁸

The Governing Body shall ensure it has policies and procedures that promote compliance with all relevant health and safety obligations and ensure that the buildings support the provision of a safe environment for children, staff⁹, visitors and all other persons who use the School Premises. The Governing Body is to appoint a competent person to assist it in discharging its duties¹⁰.

The Governing Body is to take proper account of any Approved Code of Practice (ACOP) and other authoritative guidance, including guidance issued by HM Government, setting out how dutyholders are expected to discharge their duties in practice.

The Governing Body is to discharge all of its duties as dutyholder under any relevant health and safety provisions in their entirety.

These duties which the Trustees consider fall on the Governing Body include, but are not limited to, duties arising under section 4(1) of the Health and Safety at Work Act 1974 ("HSA 1974"); the Control of Asbestos Regulations 2012 ("CAR 2012"); the Construction Design and Management Regulations 2015 and the Regulatory Reform (Fire Safety) Order 2005 ("FSO 2015").

The Trustees recognise that they are making land and premises available for use to the Governing Body. Unless the Trustees have separately notified the Governing Body, so far as the Trustees are aware there is nothing about the condition of those premises or land which renders them unsuitable or unsafe for use. However, the Governing Body is in day-to-day occupation and control of the premises, and it is strongly recommended that it undertakes all necessary surveys of the premises and land to confirm their safety and suitability for use. The Trustees should be notified of any matters of concern arising from that survey or any information in the possession of the Governing Body relating to the condition of land or premises.

For the purposes of the FSO 2015, the Trustees expressly nominate the Governing Body as the 'responsible person' for the purposes of discharging the relevant duties under the FSO 2015.

The Trustees consider the Governing Body to be dutyholder and where applicable the main dutyholder, for the purposes of regulation 4(1) of CAR 2012 and the Approved Code of Practice, 'Managing and Working with Asbestos' ('ACOP'), and to

⁷ See 'Terms and conditions of grant funding for dioceses and non-diocesan Voluntary aided schools groups in receipt of school Condition allocations in financial year 2020-21' In particular paras 10, 24.

⁸ **The relevant statutory provisions are those defined in s53 Health and Safety at Work Act 1974. For 'competent person' see reg 7 Management of Health and Safety at Work Regulations 1999.**

⁹ See 'Terms and Conditions of grant funding for dioceses and non-diocesan voluntary aided schools groups in receipt of school condition allocations in financial year 2020-21'

¹⁰ See reg 7 MHSWR 1999

bear the responsibilities of the dutyholder and main dutyholder¹¹. The Governing Body is to note that the Trustees do not consider themselves to be the dutyholder or main dutyholder, and do not intend to discharge any associated functions. The Trustees will co-operate with the Governing Body to the extent necessary for it to carry out its duties.

Insofar as the Trustees are considered to be a dutyholder under CAR 2012 and ACOP, they hereby nominate the Governing Body to carry out the steps necessary to discharge that duty on the Trustees' behalf pursuant to para 103 ACOP CAR 2012, and the Governing Body shall do so on the Trustees' behalf. The Governing Body is to ensure it has the competence to carry out its function as dutyholder. The Trustees will co-operate with the Governing Body as main dutyholder to the extent necessary for it to carry out its duties.

Approved by the Trustees on 23rd July 2021

¹¹ The responsibilities of the main dutyholder are principally set out in paras 82 ACOP