

Catholic Multi-Academy Model

THE NEWMAN CATHOLIC COLLEGIATE

And

ST MARY'S CATHOLIC PRIMARY ~~SCHOOL~~ ^{ACADEMY}

SCHEME OF DELEGATION

EFFECTIVE DATE: 1 September 2013

CONTENTS	Page
Deed of Scheme of Delegation	3
Schedule 1	25
List of Academy Representatives	
Schedule 2	26
Deed of Adherence for Academy Representatives	
Appendix A	30
Academy Foundation Representative Undertaking to Diocesan Bishop	
Appendix B	32
Functioning of the Academy Committee	
Appendix C	43
Diocesan Policy on Catholic Character	
Appendix D	52
Diocesan Policy on Provision, Accountability, Improvement, Support and Intervention	
Appendix E	104
Diocesan Policy on Sex and Relationships Education	
Appendix F	107
Diocesan Policy for Leadership Formation and Development and Succession Planning	
Appendix G	114
Catholic Schools and the Definition of a 'Practising Catholic'	
Annexure 1 The Articles	131
Annexure 2 The Master Funding Agreement	132
Annexure 3 The Supplemental Funding Agreement	133
Annexure 4 The Buildings Lease	134
Annexure 5 The Playing Fields Lease	135
Deed form	136

THIS DEED is dated 1 September 2013

PARTIES

1. THE NEWMAN CATHOLIC COLLEGIATE (the "Company")
2. The Academy Representatives of St Mary's Catholic Primary ~~School~~ ^{Academy}
(which are individually referred to in this agreement as an Academy Representative (of any type) and collectively referred to as "Academy Representatives or as the "Academy Committee". Those terms shall include all successor, replacement and additional Academy Representatives of St Mary's Catholic Primary ~~School~~ ^{Academy});
3. The Founder Member; and
4. The Diocesan Bishop.

1. BACKGROUND

- 1.1. As a charity and company limited by guarantee, The Newman Catholic Collegiate (the "Company") is run by a Board of Directors (the "Directors") who are responsible for, and oversee, the management and administration of the Company and the academies run by the Company ("the academies").
- 1.2. The Company, acting by its Directors, is accountable to external government agencies including the Charity Commission and the Department for Education (including any successor bodies) for the quality of the education it provides and the Directors are required to have systems in place through which they can assure themselves of quality, safety and good practice.
- 1.3. As all of the academies which are, or may become, part of the Company are Catholic schools, designated as such, the Directors are also accountable to the Diocesan Bishop and to the Founder Member to ensure that the Academy is conducted as a Catholic school in accordance with the Code of Canon Law of the Latin Church from

time to time and the doctrinal, social and moral teachings of the Catholic Church from time to time and following the directives and policies issued by the Diocesan Bishop to ensure that the formation, governance and education of the Academy is based on the principles of Catholic doctrine, and at all times serving as a witness to the Catholic faith in Our Lord Jesus Christ.

1.4. This document, known as a "Scheme of Delegation" and referred to throughout the rest of this document as "the Scheme", explains the ways in which the Directors fulfil their responsibilities for the governance, leadership and management of this Academy.

1.5. Except as expressly provided in this Scheme, words and expressions as defined in the Articles or in the Master Funding Agreement or in the Supplemental Funding Agreement relevant to this Academy shall have the same meanings in this Scheme as is ascribed to them in those documents. References in this Scheme to numbered Articles are to the relevant clause of the Articles.

2. **AGREED TERMS**

2.1. From the Effective Date stated on page one of this Scheme, St Mary's Catholic Primary ^{Academy} School is a Catholic Academy established by the Company ("the Academy") and the persons listed in Schedule 1 of this Scheme of Delegation are the first Academy Representatives appointed to serve on the Academy Committee for St Mary's Catholic Primary ^{Academy} School.

2.2. This Scheme is a binding legal agreement between the Company (acting by its Directors from time to time), the Founder Member, the Diocesan Bishop and the Academy Representatives of the Academy setting out their respective roles and responsibilities and the commitments to each other to ensure the success of the Academy. The Scheme has been put in place in accordance with the provisions of the Company's Articles of Association (the "Articles") and it should be read in conjunction with those Articles.

2.3. Each of the Academy Representatives hereby acknowledges that

they have been provided with, have read and understood the terms of:

2.3.1. The Articles, a copy of which is annexed as Annexure 1 to this Scheme;

2.3.2. The Master Funding Agreement, a copy of which is annexed as Annexure 2 to this Scheme;

2.3.3. The Supplemental Funding Agreement applicable to the Academy, a copy of which is annexed as Annexure 3 to this Scheme;

2.3.4. The lease entered into by the Company as tenant with the Trustees as landlord, a copy of which is annexed as Annexure 4 to this Scheme ("the Buildings Lease");and

2.3.5. The lease entered into by the Company as tenant with Stoke-on-Trent City Council as landlord, a copy of which is annexed as Annexure 5 to this Scheme ("the Playing Fields Lease").

2.4. Each of the Academy Representatives agrees to comply with the terms of the documents listed in sub-clauses 2.3.1 to 2.3.5 inclusive and the Scheme throughout the term of their appointment to the Academy Committee and shall use all reasonable endeavours to carry out and comply with the policies (including all the policies referred to in clause 8.2 of this Scheme), and all directions and instructions issued by the Directors, the Founder Member and/or the Diocesan Bishop and not, whether by their acts or omissions, to do anything to put the Directors in breach of their obligations under these documents insofar as their terms are applicable to the Academy.

3. **MISSION**

3.1. The Academy's shared mission within the Company is to be part of the Church's mission, to make Christ known to all people, placing Christ and the teaching of the Catholic Church at the centre of people's lives.

- 3.2. By putting Christ and the teaching of the Catholic Church at the centre of the educational enterprise the Academy roots: pupils' spiritual, moral, social and cultural development; the quality of teaching and learning; and the formation of culture and of our society, in Him¹.
- 3.3. This educative mission is pursued through the Academy's interaction with all other academies in the communion, the local Church, families, the wider educational community and society at large.
- 3.4. The Academy shall collaborate with other academies in the Company and also co-operate with: other Catholic schools and academies; other local schools; charities; statutory bodies; and voluntary bodies based on the call of the Gospel, to serve those in need.

4. **DIRECTORS' POWERS AND RESPONSIBILITIES**

- 4.1. The Directors have a duty to act in the fulfilment of the Company's objects. The Directors also have a duty to the Founder Member to uphold the Object of the Company and to have regard to any advice of the Founder Member and/or the Diocesan Bishop and to follow any directives issued by them.
- 4.2. The Directors have overall responsibility and ultimate decision making authority for all the work of the Company, including the establishing and running of the academies and in particular this Academy as a Catholic school. This is largely exercised through setting policy and strategic planning. It is managed through setting up a strategic framework for running, improving, building capacity and securing the future of the academies both collectively and individually by:
 - 4.2.1. Setting the aims and objectives for the academies;
 - 4.2.2. Setting policies to achieve those aims and objectives;

¹ Christ at the Centre by Rev Marcus Stock STL MA

- 4.2.3. Setting priorities for the key areas for improvement for the academies, which affects resourcing;
- 4.2.4. Setting targets to achieve the aims and objectives and focus improvement for the academies;
- 4.2.5. Setting the strategic improvement plan to meet the targets, to reflect the priorities, and in accordance with the policies achieve the aims and objectives for the academies;
- 4.2.6. Reviewing the progress of the strategic improvement plan;
- 4.2.7. Monitoring and evaluating the impact of the strategic plan towards achieving the aims and objectives for the academies;
- 4.2.8. Reviewing the effectiveness of the strategic framework (i.e. the aims and objectives and whether or not the policies are effective and priorities and targets are achieved) in light of the progress and measurable outcomes in the academies.
- 4.3. The Directors have the power to direct change where required.
- 4.4. Article 100 provides for the Directors to establish one committee for several or all of the academies if they so wish and any committee that will contribute to the effective performance of the Company and/or any Academy.
- 4.5. The Directors will establish the number of core committees of Directors that they judge necessary to undertake the key strategic functions required for running all the academies in a collaborative manner. Article 101 allows for committees of Directors to include others but the Directors must be in the majority.
- 4.6. Through those core committees of Directors the Company will:
 - 4.6.1. Secure the mission shared by all of the academies, drive strategy to provide quality Catholic education across the communities of each of the academies and, by working in communion, give witness to the Catholic faith in action;

4.6.2. Raise standards and improve provision across all the academies;

4.6.3. Achieve best value for money in the resources and services secured and deployed to meet the needs of all aspects of organisation, management and administration of the academies.

4.7. The Directors' core committees will focus on:

4.7.1. securing the Catholic character; individual accountability, collective responsibility and collaborative action; self-evaluation and improvement planning; succession planning and leadership formation and development; admissions; standards and performance; data tracking and analysis; policies for curriculum, teaching, learning, assessment, monitoring, evaluation and review; strategic financial management of budgets, resources and services.

4.7.2. Also, through their manner of working, Directors will grow and develop a competitive collaborative culture in order to raise standards in all the academies.

4.8. Article 100 also provides for the Directors to appoint committees for each of the academies ("Academy Committees") and Article 102 provides for the Directors to delegate responsibility to ensure there is local representation in the running of each Academy rooted within its specific local school, parental, parish and neighbourhood communities.

4.9. The constitution, membership and proceedings of any committee shall be determined by the Directors in consultation with the Diocesan Bishop and the Founder Member and this Scheme expresses such matters as well as acknowledging the authority delegated to the Academy Committee in order to enable the Academy Committee to contribute to the running of the Academy and fulfil the Academy's mission.

4.10. All Foundation Directors shall comply with those procedures for appointment required by the Diocesan Bishop, acting through his

agent, the Diocesan Education Service.

5. **THE ACADEMY REPRESENTATIVES**

5.1. The Diocesan Bishop has the right to appoint Foundation Directors and he also has the right to appoint Academy Foundation Representatives.

5.2. Through the appointment of Foundation Directors to the Board of Directors the Diocesan Bishop's purpose is to bind together all of the academy communities beyond their own boundaries to:

5.2.1. secure the quality of Catholic education;

5.2.2. strengthen the Church; and

5.2.3. benefit the common good in accordance with the message of the Gospel.

5.3. Through the appointment of Academy Foundation Representatives to the Academy Committee the Diocesan Bishop's purpose is to:

5.3.1. strengthen the voice of the local Catholic community in determining the strategic direction of the Academy;

5.3.2. build parental and parish commitment to the Academy;

5.3.3. protect the history and traditions of the Academy in a changing educational landscape.

5.4. The Directors have the right to appoint Academy Representatives subject to this Scheme.

6. **CONSTITUTION OF THE ACADEMY COMMITTEE**

6.1. **Members of the Academy Committee**

6.1.1. The number of Academy Representatives who shall sit on the Academy Committee shall be not less than twelve (12) but, unless otherwise determined by the Directors, shall not be subject to any maximum.

- 6.1.2. The Academy Committee shall include the following types of Academy Representatives:
- 6.1.2.1. A minimum of seven (7) Academy Foundation Representatives, appointed under clause 6.2.1 or such greater number as shall be appointed by the Diocesan Bishop so that at all times the number of Academy Foundation Representatives constitutes a majority of the Academy Representatives serving on the Academy Committee by at least two (2);
 - 6.1.2.2. two (2) Academy Staff Representatives, elected or appointed under clause 6.2.3 and 6.2.4;
 - 6.1.2.3. a maximum of two (2) Academy Parent Representatives elected or appointed under clause 6.2.6;
 - 6.1.2.4. the Principal of the Academy; and
 - 6.1.2.5. any other Academy Representatives appointed by the Directors from time to time ("Academy Additional Representatives").
- 6.1.3. The Directors (all or any of them) shall also be entitled to serve on the Academy Committee and attend any meetings of the Academy Committee. Any Director attending a meeting of the Academy Committee shall count towards the quorum for the purposes of the meeting and shall be entitled to vote on any resolution being considered by the Academy Committee.
- 6.1.4. Each person appointed or elected to be an Academy Representative of any type shall prior to taking up his position as an Academy Representative and voting on any matter at a meeting of the Academy Committee either execute this Scheme as a deed in the case of the original appointees as Academy Representatives or enter into a Deed of Adherence in the form annexed as Schedule 2 to the Scheme.
- 6.1.5. During his term as an Academy Representative any such Academy Representative may be appointed as a Director of the Company pursuant to the Articles.

6.2. **Appointment of Members of the Academy Committee**

- 6.2.1. The Diocesan Bishop shall appoint at least seven (7) persons to serve on the Academy Committee as Academy Foundation Representatives by written notice delivered to the secretary to the Academy Committee, having regard to any recommendations and views of the Directors in relation to ensuring that the people serving on the Academy Committee between them have an appropriate range of skills and experience and due attention is given to succession planning.
- 6.2.2. Prior to taking up his position as an Academy Foundation Representative and voting on any matter at a meeting of the Academy Committee, each Academy Foundation Member shall, in addition to executing the Deed of Adherence referred to in clause 6.1.4 above, give a written undertaking to the Diocesan Bishop substantially in the form annexed as Appendix A.
- 6.2.3. Without taking into account the Principal, if the number of employees at the Academy is one or two, those employees shall by virtue of their employment be the Staff Academy Representatives.
- 6.2.4. Without taking into account the Principal, if the number of employees at the Academy exceeds two, the staff of the Academy (excluding the Principal) shall elect two of their number to serve on the Academy Committee through such process as they may determine, provided that the total number of such persons (including the Principal) does not exceed one third of the total number of persons on the Academy Committee. The positions held by those employed at the Academy (e.g. teaching and non-teaching) may be taken into account when considering nominations.
- 6.2.5. The Principal of the Academy shall be treated for all purposes as being an ex officio member of the Academy Committee.
- 6.2.6. Subject to clause 6.2.10 the Academy Parent Representatives to the Academy Committee shall be elected by parents of registered pupils at the Academy and he must be a parent of a pupil at the Academy

at the time when he is elected.

- 6.2.7. The Academy Committee shall make all necessary arrangements for, and determine all other matters relating to, an election of an Academy Parent Representative to the Academy Committee, including any question of whether a person is a parent of a registered pupil at the Academy and arrangements for elections of Academy Parent Representatives to the Academy Committee where the number of candidates exceeds the number of vacancies.
- 6.2.8. The arrangements made for the election of an Academy Parent Representative to the Academy Committee shall provide for every person who is entitled to vote in the election to have an opportunity to do so by returning his ballot paper by post or by hand to the secretary of the Academy Committee.
- 6.2.9. Where a vacancy for an Academy Parent Representative to the Academy Committee is required to be filled by election, the Academy Committee shall take such steps as are reasonably practical to secure that every person who is known to them to be a parent of a registered pupil at the Academy is informed of the vacancy and that it is required to be filled by election, informed that he is entitled to stand as a candidate, and vote at the election, and given an opportunity to do so.
- 6.2.10. The required number of Academy Parent Representatives to the Academy Committee shall be made up by persons appointed by the Academy Committee if the number of parents standing for election is less than the number of vacancies.

6.3. **Term of Office**

- 6.3.1. The term of office for any Academy Representative to serve on the Academy Committee shall be four (4) years save that this time limit shall not apply to the person who is an Academy Representative by virtue of him holding the office of Principal. Subject to remaining eligible to be a particular type of Academy Representative, any person may be re-appointed or re-elected as an Academy

Representative and serve on the Academy Committee.

6.4. Resignation and Removal

6.4.1. A person serving on the Academy Committee shall cease to hold office if he resigns his office by notice to the secretary to the Academy Committee.

6.4.2. A person serving on the Academy Committee shall cease to hold office if he is removed by the person or persons who appointed him. Whilst at the same time as acknowledging that no reasons need to be given for the removal of a person who serves on the Academy Committee by a person or persons who appointed him, any breach of the Deed of Adherence, any failure to uphold the values of the Company and/or the Academy or to act in a way which is appropriate in light of this Scheme will be taken into account. A person (except an Academy Foundation Representative) may also be removed by the Directors but only after the Directors have given due regard to any representations by the Academy Committee. This clause does not apply in respect of a person who is serving as an elected Academy Representative to the Academy Committee.

6.4.3. If any person who serves on the Academy Committee as an Academy Staff Representative ceases to work at the Academy then he shall be deemed to have resigned and shall cease to serve on the Academy Committee automatically on termination of his work at the Academy.

6.4.4. Where a person who serves on the Academy Committee resigns his office or is removed from office, that person or, where he is removed from office, those removing him, shall give written notice thereof to the secretary of the Academy Committee who shall inform the Directors and the Diocesan Bishop.

6.5. Disqualification of Members of the Academy Committee

6.5.1. No person shall be qualified to serve on the Academy Committee unless he is aged 18 or over at the date of his election or

appointment. No current pupil of the Academy shall be entitled to serve on the Academy Committee.

- 6.5.2. A person serving on the Academy Committee shall cease to hold office if he becomes incapable by reason of mental disorder, illness or injury of managing or administering his own affairs.
- 6.5.3. A person serving on the Academy Committee shall cease to hold office if he is absent without the permission of the chairman of the Academy Committee from all the meetings of the Academy Committee held within a period of six months and the Academy Committee resolves that his office be vacated.
- 6.5.4. A person shall be disqualified from serving on the Academy Committee if:
 - 6.5.4.1. his estate has been sequestered and the sequestration has not been discharged, annulled or reduced; or
 - 6.5.4.2. he is the subject of a bankruptcy restrictions order or an interim order.
- 6.5.5. A person shall be disqualified from serving on the Academy Committee at any time when he is subject to a disqualification order or a disqualification undertaking under the Company Directors Disqualification Act 1986 or to an order made under section 429(2)(b) of the Insolvency Act 1986 (failure to pay under county court administration order).
- 6.5.6. A person serving on the Academy Committee shall cease to hold office if he would cease to be a director by virtue of any provision in the Companies Act 2006 or is disqualified from acting as a trustee by virtue of section 72 of the Charities Act 1993 (or any statutory re-enactment or modification of that provision).
- 6.5.7. A person shall be disqualified from serving on the Academy Committee if he has been removed from the office of charity trustee or trustee for a charity by an order made by the Charity Commission or the High Court on the grounds of any misconduct or

mismanagement in the administration of the charity for which he was responsible or to which he was privy, or which he by his conduct contributed to or facilitated.

6.5.8. A person shall be disqualified from serving on the Academy Committee at any time when he is:

6.5.8.1. included in the list kept by the Secretary of State under section 1 of the Protection of Children Act 1999; or

6.5.8.2. disqualified from working with children in accordance with section 35 of the Criminal Justice and Court Services Act 2000; or

6.5.8.3. barred from regulated activity relating to children (within the meaning of section 3(2) of the Safeguarding Vulnerable Groups Act 2006).

6.5.9. A person shall be disqualified from serving on the Academy Committee if he is a person in respect of whom a direction has been made under section 142 of the Education Act 2002 or is subject to any prohibition or restriction which takes effect as if contained in such a direction.

6.5.10. A person shall be disqualified from serving on the Academy Committee where he has, at any time, been convicted of any criminal offence, excluding any that have been spent under the Rehabilitation of Offenders Act 1974 as amended, and excluding any offence for which the maximum sentence is a fine or a lesser sentence except where a person has been convicted of any offence which falls under section 178 of the Charities Act 2011.

6.5.11. A person shall be disqualified from serving on the Academy Committee if he refuses to execute this Scheme and/or a Deed of Adherence in substantially the form set out in Schedule 2 within 10 days of his appointment and delivers the same to the secretary of the Academy Committee.

6.5.12. After the Academy has opened, a person shall be disqualified from

serving on the Academy Committee if he has not provided to the chairman of the Academy Committee a criminal records certificate at an enhanced disclosure level under section 113 of the Police Act 1997. In the event that the certificate discloses any information which would, in the opinion of either the chairman or the Principal, confirm his unsuitability to work with children that person shall be disqualified. If a dispute arises as to whether a person shall be disqualified, a referral shall be made to the Secretary of State to determine the matter. The determination of the Secretary of State shall be final.

6.5.13. Where, by virtue of this Scheme, a person becomes disqualified from serving on the Academy Committee; and he was, or was proposed, to so serve, he shall upon becoming so disqualified give written notice of that fact to the secretary to the Academy Committee who shall inform the Directors and the Diocesan Bishop.

6.5.14. This clause 6.5 and clause 6.1.4 shall also apply to any member of any committee of the Academy Committee who is not an Academy Representative.

7. DELEGATED POWERS

7.1. General Provisions

7.1.1. Subject to the provisions of the Companies Act 2006, the Articles and to any directions given by the Members by special resolution, and/or to any Policies and/or directives issued by or on behalf of the Diocesan Bishop, the Directors may delegate functions to the Academy Committee who may exercise the powers of the Company in so far as they relate to the Academy, in accordance with the terms of this Scheme. No alteration of the Articles and no such direction shall invalidate any prior act of the Academy Committee which would have been valid if that alteration had not been made or that direction had not been given. Except as provided for in this Scheme, the powers given by this Scheme shall not be limited by any special power given to the Directors by the Articles or to the

Academy Committee by this Scheme and a meeting of the Academy Committee at which a quorum is present may exercise all the powers so delegated.

7.1.2. In general terms, the responsibility of the Directors in so far as the business of the Academy is concerned is to: set the strategic direction; determine the policy and procedures of the Academy; hold the Academy to account and provide challenge and support to the Principal. The Directors are free to decide what constitutes a strategic issue, having regard to all the circumstances.

7.1.3. The Directors shall delegate functions to the Academy Committee that relate to:

7.1.3.1. the Catholic life;

7.1.3.2. the day-to-day life of the Academy; the health and safety arrangements; the implementation of the Academy's curriculum plans; the arrangements for teaching and learning;

7.1.3.3. the culture and traditions of the Academy as a unique community with a specific school, parish, community and locality, identity and history;

7.1.3.4. communication and the appropriate formation of relationships with parents of pupils attending the Academy to work with and support them in their role as primary educators of their children;

7.1.3.5. engagement with the parish priest and local Church and parish community to work with and support them as they contribute to the religious, spiritual, moral, social and cultural formation of the pupils in the school;

7.1.3.6. relationships with other local schools, agencies and businesses, as well as the wider neighbourhood community, that enhances the quality of education provided by the Academy for its pupils;

7.1.3.7. providing evaluative feedback and supporting evidence to the Directors on the impact and effectiveness of both the Company's and the Academy's collective and individual: aims and objectives; policies; targets; and plans.

7.1.4. In the exercise of its powers and functions, the Academy Committee may consider any advice given by the Principal and the Directors and the Diocesan Bishop.

7.1.5. At all times, the Directors and the Academy Committee shall ensure that the Academy is conducted in accordance with the Object, the terms of the documents listed in sub-clauses 2.1.1 to 2.1.5 inclusive, the Policies referred to in clause 8.2 of this Scheme and any other agreement entered into by the Directors with the Secretary of State for the funding of the Academy.

7.2. Finance

7.2.1. In acknowledgement of the receipt by the Company of funds in relation to the Academy, provided by the Secretary of State, donated to the Company and generated from the activities of the Company, the Directors delegate to the Academy Committee the responsibility to manage and expend all monies received on account of the Academy for the purposes of the Academy less an amount to be determined each year by the Directors acting reasonably in order to benefit all the academies working collaboratively.

7.2.2. The accounts of the Company shall be the responsibility of the Directors but the Academy Committee shall provide such information about the finances of the Academy as often and in such format as the Directors shall reasonably require. Without prejudice to the above, the Academy Committee shall provide monthly management accounts to the Directors.

7.2.3. The Academy Committee shall ensure that proper procedures are put in place for the safeguarding of funds and that the requirements of the Academies Financial Handbook are observed at all times as well as any requirements and recommendations of the Directors and

the Secretary of State.

- 7.2.4. The Academy Committee shall inform the Directors and the Founder Member of any need for significant unplanned expenditure and will discuss with the Directors (and others as the Directors shall require) options for identifying available funding.
- 7.2.5. The Academy Committee shall develop appropriate risk management strategies and shall at all times adopt financial prudence in managing the financial affairs of the Company in so far as these relate to the Academy.
- 7.2.6. Both the Company and the Academy Committee acknowledge that neither the Diocesan Bishop nor the Diocesan Trustees have any financial responsibility for the Company or the Academy in any situation and that the Founder Member's financial responsibilities are as set out in the Articles.

7.3. **Premises**

- 7.3.1. Subject to and without prejudice to clause 7.4, the maintenance of the buildings and facilities used in respect of the Academy is the responsibility of the Academy Committee, who shall have regard at all times to the safety of the users of the buildings and the facilities and the legal responsibilities of the Company (and/or any others) as tenant to the owners of such buildings and facilities.
- 7.3.2. The Academy Committee shall in conjunction with the Directors develop a 5 year estate management strategy to be submitted to the Trustees for their approval that will identify the suitability of building and facilities in light of long term curriculum needs and the need for and availability of capital investment to meet the Academy Committee's responsibility to ensure the buildings and facilities are maintained to a good standard.
- 7.3.3. The responsibility for any disposals or acquisitions of land to be used by the Academy will be that of the Company subject always to the approval of the Trustees and in accordance with the provisions

of the Master Funding Agreement.

7.4. Insurances

- 7.4.1. Insuring the land and buildings used by the Academy will be the responsibility of the Company. The Trustees will procure some or all such insurance on the Company's behalf pursuant to the terms of the Buildings Lease but the Company as tenant is required to cover the cost of such insurance for the Academies and the Directors are entitled to deduct a proportion of such contribution relating to the Academy from the budget of the Academy.
- 7.4.2. The Directors shall provide to and use reasonable endeavours to procure for the Academy Committee a copy of each insurance policy taken out by them or on their behalf which insures against any risks relating to the property, premises and activities of the Academy. The Academy Committee shall use all reasonable endeavours to ensure that none of the terms of any of those insurance policies are breached and in the event of any event which will or may give rise to a breach of or claim under any applicable insurance policy the Academy Representatives shall immediately notify the Directors.

7.5. Staff

- 7.5.1. The Company's Directors shall be responsible for appointing the Principal and Vice-Principal of the Academy and, where the Academy is a secondary school, the Head of Religious Education and the school Chaplain.
- 7.5.2. The Academy Committee shall be responsible for the process to appoint other staff and the management of all other staff employed at the Academy provided that the Academy Committee shall:
 - 7.5.2.1. comply with all policies dealing with staff issued by the Directors from time to time;
 - 7.5.2.2. take account of any pay terms set by the Directors;
 - 7.5.2.3. adopt any standard contracts or terms and conditions

for the employment of staff issued by the Directors;

7.5.2.4. manage any claims and disputes with staff members having regard to any advice and recommendations given by the Directors.

7.5.3. To the fullest extent permitted by law from time to time in connection with the appointment, remuneration and promotion of teachers at the Academy regard will be made and preference may be given to persons:

7.5.3.1. whose religious opinions are in accordance with the tenets of the Catholic faith; or

7.5.3.2. who attend religious worship in accordance with the tenets of the Catholic faith; or

7.5.3.3. who give or are willing to give religious education at the Academy in accordance with the tenets of the Catholic faith.

7.5.4. Regard may be had in connection with the termination of employment or engagement of any such teacher at the Academy to any conduct on his part which is incompatible with the precepts or with the upholding of the tenets of the Catholic faith.

7.5.5. To the fullest extent permitted by law from time to time in connection with the appointment, remuneration or promotion of all non-teaching staff in particular without limitation any Chaplain appointed by the Company for the Academy where being of the Catholic faith is an occupational requirement and the application of that requirement is a proportionate means of achieving a legitimate aim having regard to the Object and to the nature or context of the work to be carried out by the member of non-teaching staff in question, then preference may be given to a practising Catholic.

7.5.6. To the fullest extent permitted by law from time to time the contract of employment for teaching and other staff used by the Company shall include provisions aimed at securing the employee's

commitment to the mission, purposes, aims and objectives of Catholic education and the Object and all employees will be required to have regard to, develop and maintain the Catholic character of the Academy and not do anything detrimental or prejudicial to the interests of the same. Subject to the same being complying with law in force from time to time the Academy's disciplinary procedures must take account of local model policies produced by the Diocesan Bishop.

- 7.5.7. The Academy Committee shall put in place procedures for the proper performance management, professional and personal development of staff, including the Principal, of the Academy.

7.6. **Extended Schools and Business Activities**

- 7.6.1. The undertaking of any activities which may be described as part of the Academy's "extended schools' agenda" or any activities designed to generate business income shall only be undertaken with Directors' approval and in a manner consistent with any policy set by the Company for extended schools' activities but subject always to the overriding principle that at no time may any such activity carried on by the Academy or which uses any part of the Academy's premises or property or which in any way is connected with or associated with the Academy be contrary to the doctrinal, social or moral teachings of the Catholic Church.

- 7.6.2. The Academy Committee shall also have regard to the viability of such activities, the impact on the Academy's activities and any financial implications, such as the threat of taxation in light of the Company's charitable objects and any threat to funding provided by the Secretary of State.

7.7. **Regulatory Matters**

- 7.7.1. The responsibility for the satisfaction and observance of all regulatory and legal matters shall be the Company but the Academy Committee shall do all such things as the Directors may specify as being necessary to ensure that the Company is meeting its legal

obligations.

8. OPERATIONAL MATTERS

- 8.1. The Academy Committee shall comply with the obligations set out in Appendix B which deals with the day to day operation of the Academy Committee.
- 8.2. The Academy Committee will comply with all policies of the Company and the Diocesan Bishop including without limitation those set out in Appendices C to G inclusive (collectively "the Policies") and with any amendments or additions to those Policies and with any additional policies communicated to the Academy Committee from time to time (which once communicated shall become one of the Policies).
- 8.3. All the Academy Representatives have a duty to act with integrity, objectivity and honesty in the best interests of the Company and the Academy and shall be open about decisions and be prepared to justify those decisions except in so far as any matter may be considered confidential.
- 8.4. The Academy Committee shall provide such data and information regarding the business of the Academy and the pupils attending the Academy as the Directors may require from time to time.
- 8.5. The Academy Committee shall submit to any inspections by the Directors and any inspections pursuant to section 48 of the Education Act 2005 and any additional canonical inspections and visitations of any person appointed by the Directors in consultation with the Diocesan Bishop for the purpose of ensuring that the Academy is being conducted in accordance with canon law and is following the practices and teachings of the Catholic Church and in order to allow the Diocesan Bishop to assess how well the Academy is being managed in light of the additional responsibilities and expectations of Catholic schools which are academies.
- 8.6. The Academy Committee shall work closely with and shall promptly

implement any advice or recommendations made by the Directors in the event that intervention is either threatened or is carried out by the Secretary of State and the Directors expressly reserve the unfettered right to review or remove any power or responsibility conferred on the Academy Committee under this Scheme in such circumstances.

9. REVIEW

- 9.1. This Scheme shall operate from the Effective Date in respect of the named Academy.
- 9.2. The Scheme shall not be amended unless the amendment is approved in writing by the Founder Member in its absolute discretion.
- 9.3. The Founder Member may in its absolute discretion alter any provisions of this Scheme and may review the Scheme on a periodic basis as determined by the Founder Member (which may be annually). An amended Scheme, once communicated to the Academy Committee and the Company shall be binding on all the parties to it.
- 9.4. In considering any material changes to this Scheme, the Founder Member will have regard to and give due consideration of any views of the Directors and/or Academy Committee.

Schedule 1

List of Academy Representatives

~~[TBC]~~

Deborah Campbell
Kenin Daley
Stuart Robert Franklin
Victoria Goldsmith
Julian Charles Green
Angela Margaret Jones
Theresa Madden
Diane Mason
Michael Moran
Rosemary Pritchard
Christopher Smith
Terry Michael Stanway
Robert Vernon
Rev. Peter John Weatherby

Schedule 2

**Deed of Adherence to be executed by each Academy Representative
on being appointed (clause 8.1.4)**

[Date]

ST MARY'S CATHOLIC PRIMARY ~~SCHOOL~~ ^{ACADEMY}

DEED OF ADHERENCE

BETWEEN

THE COMPANY

AND

THE FOUNDER MEMBER

AND

***[NAME OF EACH SUBSEQUENT ACADEMY REPRESENTATIVE
APPOINTEE]***

1. **THIS DEED** is dated [*insert date*]

2. **PARTIES**

2.1. The Newman Catholic Collegiate (the "Company")

2.2. [*Name of the new Academy Representative*]; and

2.3. The Founder Member.

3. **BACKGROUND**

3.1. [*Name of the new Academy Representative*] [is nominated] [is appointed] [has been duly elected] as an Academy [Foundation] [Staff] [Principal] [Parent] [Additional] Representative for [*insert name of Academy*] under the provisions of [8.2.1] [8.2.3] [8.2.4] [8.2.5] [8.1.2.1] of that Academy's Scheme.

4. **AGREED TERMS**

4.1. **Interpretation**

4.1.1. Words and expressions used in this deed shall, unless the context expressly requires otherwise, have the meaning given to them in, and be interpreted in accordance with, the Scheme.

4.2. **Adherence to the Scheme**

4.2.1. [*Name of new Academy Representative*] hereby:

4.2.2. confirms [he/she] [is nominated][is appointed][has been duly elected] as an Academy [Foundation] [Staff] [Principal] [Parent] [Additional] Representative for St Mary's Catholic Primary ~~School~~ ^{Academy} and accepts and is willing and able to fulfil the duties of that office.

4.2.3. acknowledges to the Company and the Founder Member that [he/she] has been provided with, has read and understood the terms of:

4.2.3.1. The Articles;

- 4.2.3.2. The Master Funding Agreement;
- 4.2.3.3. The Supplemental Agreement applicable to the Academy;
- 4.2.3.4. The lease entered into by the Company as tenant with the Trustees as landlord, (the Buildings Lease);
- 4.2.3.5. The lease entered into by the Company as tenant with Stoke-on-Trent City Council as landlord, (the Playing Fields Lease); [and]
- 4.2.3.6. The Scheme of Delegation for the Academy together with the Policies annexed to it and/or which are current at the date of commencement of my appointment ("the Scheme").
- 4.2.4. undertakes to the Company and the Founder Member to comply with the terms of the documents listed above throughout the term of [his/her] appointment as an Academy Representative for the Academy and shall use all reasonable endeavours to carry out and comply with the policies, directions and instructions issued by the Directors, the Founder Member and/or the Diocesan Bishop and not, whether by any act or omission, breach or to do anything to put the Directors in breach of their obligations under the Articles and/or the Relevant Funding Agreement insofar as their terms are applicable to the Academy.
- 4.2.5. undertakes to the Company and the Founder Member to uphold the Object of the Company.

4.3. **Variation of the Scheme**

- 4.3.1. Schedule 1 to the Scheme (the list of Academy Representatives from time to time) shall be amended as set out in Schedule 1 to this deed. All other terms of the Scheme shall be unaffected by this deed and the Scheme shall remain in full force and effect.

4.4. **Governing Law and Jurisdiction**

- 4.4.1. This deed and any disputes or claims arising out of or in connection with its subject matter or formation (including non-contractual

disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

4.4.2. The parties irrevocably agree that the courts of England and Wales have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement, its subject matter or formation (including non-contractual disputes or claims).

4.5 This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

Schedule 1 to Deed of Adherence

List of Academy Representatives from the date of the Deed

[Insert List]

This Deed of Adherence is signed as a **DEED** by *[Name of Academy Representative]*

Signature of Academy

Representative:.....

Name of Academy

Representative:.....

In the presence of a witness:

Name of Witness:

Signature of Witness:

Address of Witness:

.....

.....

Appendix A

ACADEMY FOUNDATION REPRESENTATIVES

UNDERTAKING TO THE DIOCESAN BISHOP

Name:

Address:

.....

.....

I hereby recognise and confirm that:

- I am a practising Catholic in full communion with the See of Rome, and I am not the subject of any canonical censure or penalty.
- My appointment places a legal duty upon me to ensure that the religious character of the Academy is preserved and developed and that the Academy is conducted in accordance with the Object of the Multi-Academy Company [Article 4].
- My appointment requires me to comply with the provisions of Canon Law, the teachings of the Catholic Church and such determinations made by the Archbishop and his Trustees and their agent, the Diocesan Education Service, in respect of the Academy.
- I understand that I may be removed from office by the person or persons who have appointed me.
- I am willing to attend training for Academy Foundation Representatives during my course of service as requested by the Diocesan Education Service.
- I have read and understood the Scheme and all annexed and appended documents.
- I understand that if any subsequent grounds for disqualification come to light, my appointment as an Academy Foundation Representative will be terminated.

- For the good of the mission of the Catholic Church and of Catholic education in the Archdiocese of Birmingham, I am willing to be called by His Grace the Archbishop of Birmingham to serve as an Academy Foundation Representative.

Signed: Date:

Appendix B

FUNCTIONING OF THE ACADEMY COMMITTEE

1. CHAIRMAN AND VICE-CHAIRMAN OF THE ACADEMY COMMITTEE

- 1.1. The Academy Representatives to the Academy Committee shall each school year, at their first meeting in that year, elect a chairman and a vice-chairman to serve until a successor is appointed or a vacancy occurs as envisaged in paragraph 1.3. The chairman's position shall always be held by an Academy Foundation Representative. An Academy Foundation Representative who is at the time of election already a Director of the Company shall be eligible for election as chairman or vice-chairman. The Principal of the Academy is not eligible to stand for election as chairman or vice-chairman.
- 1.2. Subject to paragraph 1.4, the chairman or vice-chairman shall hold office as such until his successor has been elected in accordance with this clause 1.
- 1.3. The chairman or vice-chairman may at any time resign his office by giving notice in writing to the secretary of the Academy Committee who shall notify the Directors. The chairman or vice-chairman shall cease to hold office if:
 - 1.3.1. he ceases to serve on the Academy Committee;
 - 1.3.2. he is employed by the Company whether or not at the Academy;
 - 1.3.3. he is removed from office in accordance with this Scheme; or
 - 1.3.4. in the case of the vice-chairman, he is elected in accordance with this Scheme to fill a vacancy in the office of chairman.
- 1.4. Where by reason of any of the matters referred to in paragraph 1.3, a vacancy arises in the office of chairman or vice-chairman, the Academy Representatives shall at the next meeting of the Academy

Committee elect one of their number to fill that vacancy.

- 1.5. Where the chairman is absent from any meeting or there is at the time a vacancy in the office of the chairman, the vice-chairman shall act as the chair for the purposes of the meeting.
- 1.6. Where in the circumstances referred to in paragraph 1.5 the vice-chairman is also absent from the meeting or there is at the time a vacancy in the office of vice-chairman, the Academy Representatives shall elect one of their number to act as a chairman for the purposes of that meeting; the Principal may not be elected.
- 1.7. Any election of the chairman or vice-chairman which is contested shall be held by secret ballot.
- 1.8. The chairman or vice-chairman may only be removed from office by the Directors at any time or by the Academy Committee in accordance with this Scheme.
- 1.9. A resolution to remove the chairman or vice-chairman from office which is passed at a meeting of the Academy Committee shall not have effect unless:
 - 1.9.1. it is confirmed by a resolution passed at a second meeting of the Academy Committee held not less than fourteen days after the first meeting; and
 - 1.9.2. the matter of the chairman's or vice-chairman's removal from office is specified as an item of business on the agenda for each of those meetings.
- 1.10. Before a resolution is passed by the Academy Committee at the relevant meeting as to whether to confirm the previous resolution to remove the chairman or vice-chairman from office, the person or persons proposing his removal shall at that meeting state their reasons for doing so and the chairman or vice-chairman shall be given an opportunity to make a statement in response.

2. CONFLICTS OF INTEREST

- 2.1. Any Academy Representative who has or can have any direct or indirect duty or personal interest (including but not limited to any Personal Financial Interest) which conflicts or may conflict with his duties as a member of the Academy Committee shall disclose that fact to the Academy Committee as soon as he becomes aware of it. An Academy Representative must absent himself from any discussions of the Academy Committee in which it is possible that a conflict will arise between his duty to act solely in the interests of the Academy and any duty or personal interest (including but not limited to any Personal Financial Interest).
- 2.2. For the purpose of paragraph 2.1, a person has a Personal Financial Interest if he is in the employment of the Company or is in receipt of remuneration or the provision of any other benefit directly from the Company or in some other way is linked to the Company or the Academy.
- 2.3. In any conflict between any provision of this Scheme and the Articles, the Articles shall prevail.
- 2.4. Any disagreement between the Principal and any of the other Academy Representatives shall be referred to the Directors for their determination.

3. **THE SECRETARY**

- 3.1. The Directors must appoint a secretary to each Academy Committee.
- 3.2. The Principal cannot be appointed secretary to the Academy Committee.
- 3.3. If the secretary does not attend an Academy Committee meeting the Academy Representatives can appoint a member of the committee (but not the Principal) to act as secretary for that meeting.

4. **THE MINUTES**

4.1. The minutes of the proceedings of a meeting of the Academy Committee shall be drawn up and entered into a book kept for the purpose by the person authorised to keep the minutes of the Academy Committee; and shall be signed (subject to the approval of the members of the Academy Committee) at the same or next subsequent meeting by the person acting as chairman thereof. The minutes shall include a record of:

4.1.1. all appointments of officers made by the Academy Committee; and

4.1.2. all proceedings at meetings of the Academy Committee including the names of all persons present at each such meeting.

4.2. The chairman shall ensure that copies of minutes of all meeting of the Academy Committee shall be provided to the Directors and the Founder Member as soon as reasonably practicable after those minutes are approved.

5. **MEETINGS OF THE ACADEMY COMMITTEE**

5.1. Subject to this Scheme, the Academy Committee may regulate its proceedings as the Academy Representatives think fit.

5.2. The Academy Committee shall meet at least three times in every school year. Meetings of the Academy Committee shall be convened by the secretary to the Academy Committee. In exercising his functions under this Scheme the secretary shall comply with any direction:

5.2.1. given by the Directors or the Academy Committee; or

5.2.2. given by the chairman of the Academy Committee or, in his absence or where there is a vacancy in the office of chairman, the vice-chairman of the Academy Committee, so far as such direction is not inconsistent with any direction given as mentioned in 5.2.1 above.

5.3. Any three Academy Representatives may, by notice in writing given

to the secretary of the Academy Committee, requisition a meeting of the Academy Committee; and it shall be the duty of the secretary to convene such a meeting as soon as is reasonably practicable.

- 5.4. Each Academy Representative shall be given at least seven clear days before the date of a meeting:

5.4.1. notice in writing thereof, signed by the secretary to the Academy Committee, and sent to each Academy Representative at the address provided by each Academy Representative from time to time; and

5.4.2. a copy of the agenda for the meeting;

5.4.3. provided that where the chairman or, in his absence or where there is a vacancy in the office of chairman, the vice-chairman, so determines on the ground that there are matters demanding urgent consideration, it shall be sufficient if the written notice of a meeting, and the copy of the agenda thereof are given within such shorter period as he directs.

- 5.5. The convening of a meeting and the proceedings conducted thereat shall not be invalidated by reason of any individual not having received written notice of the meeting or a copy of the agenda thereof.

- 5.6. A resolution to rescind or vary a resolution carried at a previous meeting of the Academy Committee shall not be proposed at a meeting of the Academy Committee unless the consideration of the rescission or variation of the previous resolution is a specific item of business on the agenda for that meeting.

- 5.7. A meeting of the Academy Committee shall be terminated forthwith if:

5.7.1. the Academy Representatives so resolve; or

5.7.2. the number of Academy Representatives present ceases to constitute a quorum for a meeting of the Academy Committee in

accordance with paragraph 5.10, subject to paragraph 5.12.

5.8. Where in accordance with paragraph 5.7 a meeting is not held or is terminated before all the matters specified as items of business on the agenda for the meeting have been disposed of, a further meeting shall be convened by the secretary as soon as is reasonably practicable, but in any event within seven days of the date on which the meeting was originally to be held or was so terminated.

5.9. Where the Academy Committee resolves in accordance with paragraph 5.7 to adjourn a meeting before all the items of business on the agenda have been disposed of, the Academy Committee shall before doing so determine the time and date at which a further meeting is to be held for the purposes of completing the consideration of those items, and they shall direct the secretary to convene a meeting accordingly.

5.10. Subject to paragraph 5.12, the quorum for a meeting of the Academy Committee, and any vote on any matter thereat, shall be any one half (rounded up to a whole number) of the total number of Academy Representatives holding office at the date of the meeting. If the Directors have appointed any Additional Academy Representatives of the Academy Committee pursuant to clause 6.1.2.5 of this Scheme then a meeting will only be considered to be quorate if those Additional Academy Representatives are present.

5.11. The Academy Committee may act notwithstanding any vacancies on its board, but, if the numbers of persons serving is less than three, the continuing persons may act only for the purpose of filling vacancies.

5.12. The quorum for the purposes of:

5.12.1. appointing an Academy Parent Representative;

5.12.2. any vote on the removal of a person in accordance with this Scheme;

5.12.3. any vote on the removal of the chairman of the

Academy Committee;

- 5.13. shall be any two-thirds (rounded up to a whole number) of the persons who are at the time persons entitled to vote on those respective matters.
- 5.14. Subject to this Scheme, every question to be decided at a meeting of the Academy Committee shall be determined by a majority of the votes of the persons present and entitled to vote on the question. Every member of the Academy Committee shall have one vote.
- 5.15. Subject to paragraphs 5.10 and 5.12, where there is an equal division of votes, the chairman of the meeting shall have a casting vote in addition to any other vote he may have.
- 5.16. The proceedings of the Academy Committee shall not be invalidated by
 - 5.16.1. any vacancy on the Academy Committee; or
 - 5.16.2. any defect in the election, appointment or nomination of any person serving on the Academy Committee.
- 5.17. A resolution in writing, signed by all the persons entitled to receive notice of a meeting of the Academy Committee, shall be valid and effective as if it had been passed at a meeting of the Academy Committee. Such a resolution may consist of several documents in the same form, each signed by one or more of the members of the Academy Committee and may include an electronic communication by or on behalf of that member of the Academy Committee indicating his or her agreement to the form of resolution providing that the member has previously notified the Academy Committee in writing of the email address or addresses which the member will use.
- 5.18. Subject to paragraph 5.20, the Academy Committee shall ensure that a copy of:
 - 5.18.1. the agenda for every meeting of the Academy

Committee;

5.18.2. the draft minutes of every such meeting, if they have been approved by the person acting as chairman of that meeting;

5.18.3. the signed minutes of every such meeting; and

5.18.4. any report, document or other paper considered at any such meeting,

are, as soon as is reasonably practicable, made available at the Academy to persons wishing to inspect them.

5.19. The Academy Committee shall use all reasonable endeavours to ensure their advice is brought to the attention of the Directors.

5.20. There may be excluded from any item required to be made available in pursuance of paragraph 5.18, any material relating to:

5.20.1. a named teacher or other person employed, or proposed to be employed, at the Academy;

5.20.2. a named pupil at, or candidate for admission to, the Academy; and

5.20.3. any matter which, by reason of its nature, the Academy Committee is satisfied should remain confidential.

5.21. Any Academy Representative shall be able to participate in meetings of the Academy Committee by telephone or video conference provided that:

5.21.1. he has given notice of his intention to do so detailing the telephone number on which he can be reached and/or appropriate details of the video conference suite from which he shall be taking part at the time of the meeting at least 48 hours before the meeting; and

5.21.2. the Academy Committee has access to the appropriate equipment if after all reasonable efforts it does not prove possible

for the person to participate by telephone or video conference the meeting may still proceed with its business provided it is otherwise quorate.

6. NOTICES

- 6.1. Any notice to be given to or by any person pursuant to this Scheme (other than a notice calling a meeting of the Academy Committee) shall be in writing or shall be given using electronic communications. In this Scheme, "address" in relation to electronic communications, includes a number or address used for the purposes of such communications.
- 6.2. A notice may be given to an Academy Representative either personally or by sending it by post in a prepaid envelope addressed to the Academy Representative at his registered address or by leaving it at that address or by giving it using electronic communications to an address for the time being notified to the secretary of the Academy Committee by that Academy Representative. An Academy Representative whose registered address is not within the United Kingdom and who gives to the secretary to the Academy Committee an address within the United Kingdom at which notices may be given to him, or an address to which notices may be sent using electronic communications, shall be entitled to have notices given to him at that address, but otherwise no such Academy Representative shall be entitled to receive any notice from the Academy Committee or any other party to the Scheme.
- 6.3. A notice shall be deemed to have been given to the Academy Committee and each of the Academy Representatives if that notice is sent by post in a prepaid envelope addressed to the secretary of the Academy Committee or by giving it using electronic communications to an address for secretary of the Academy Committee for the time being notified to all the other parties to the Scheme by the secretary of the Academy Committee.

- 6.4. A notice shall be deemed to have been given to the Directors of the Company if that notice is sent by post in a prepaid envelope addressed to the Office or if left at the Office or by giving it using electronic communications to an address for the Office for the time being notified to all the other parties to the Scheme by the Secretary of the Company.
- 6.5. A notice shall be deemed to have been given to the Founder Member if that notice is sent by post in a prepaid envelope addressed to the Director of Education at the Diocesan Education Service, St Anne's House, 61 Coventry Road, Coleshill, Birmingham B46 3EA or such other address as may be notified from time to time to the other parties to the Scheme by the Founder Member.
- 6.6. A notice shall be deemed to have been given to the Diocesan Bishop if that notice is sent by post in a prepaid envelope addressed to the Director of Education at the Diocesan Education Service, St Anne's House, 61 Coventry Road, Coleshill, Birmingham B46 3EA or such other address as may be notified from time to time to the other parties to the Scheme by the Diocesan Bishop.
- 6.7. A notice shall be deemed to have been given to the Trustees if that notice is sent by post in a prepaid envelope addressed to the Archbishop at Cathedral House, St Chad's Queensway, Birmingham B4 6EU or such other address as may be notified from time to time to the other parties to the Scheme by the Trustees.
- 6.8. An Academy Representative present, either in person or by proxy, at any meeting of the Academy Committee shall be deemed to have received notice of the meeting and, where necessary, of the purposes for which it was called.
- 6.9. Proof that an envelope containing a notice was properly addressed, prepaid and posted shall be conclusive evidence that the notice was given. Proof that a notice contained in an electronic communication was sent in accordance with guidance issued by the Institute of Chartered Secretaries and Administrators shall be conclusive

evidence that the notice was given. A notice shall be deemed to be given at the expiration of 48 hours after the envelope containing it was posted or, in the case of a notice contained in an electronic communication, at the expiration of 48 hours after the time it was sent.

7. INDEMNITY

- 7.1. Subject to the provisions of the Companies Act 2006 every Academy Representative or other officer or auditor of the Company acting in relation to the Academy shall be indemnified out of the assets of the Company against any liability incurred by him in that capacity in defending any proceedings, whether civil or criminal, in which judgment is given in favour or in which he is acquitted or in connection with any application in which relief is granted to him by the court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Company.

8. GOVERNING LAW AND JURISDICTION

- 8.1. This Scheme and any disputes or claims arising out of or in connection with its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.
- 8.2. The parties irrevocably agree that the courts of England and Wales have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Scheme, its subject matter or formation (including non-contractual disputes or claims).

Appendix C

ARCHDIOCESE OF BIRMINGHAM DIOCESAN EDUCATION SERVICE

DIOCESAN POLICY on CATHOLIC CHARACTER ('NON-NEGOTIABLES')

To be used in a CATHOLIC MULTI-ACADEMY

in the ARCHDIOCESE of BIRMINGHAM

under the CANONICAL AUTHORITY of the ARCHBISHOP of BIRMINGHAM

1. GENERAL

- a) The Directors are responsible for each of the academies in the multi-academy company and provide the strategic direction to lead the communion of academies individually and collectively towards outstanding.
- b) The fundamental partnership that exists, which will be sustained and developed is between the Archbishop of Birmingham and each Diocesan academy. This partnership provides the source of the Academy's authentic ecclesial foundation within the Catholic Church and is core to: the concept of ecclesial communion; understanding why the Diocese provides academies; what they aim to achieve; and how they can best be effective. The reasons why Catholic academies exist in the Diocese are:
 - (a) to make Christ known to all people;
 - (b) to assist parents in the education and religious formation of their children;
 - (c) to be of service to the local Church, and
 - (d) to be of service to society.
- c) In general, for an academy to '*bear the title*² as a Diocesan Catholic academy it must be '*by the consent of the competent ecclesial authority*³,

² Code of Canon Law 803.3

³ Code of Canon Law 803.1

i.e. the Archbishop of Birmingham, and *'it must be under the control of⁴* the Archbishop, conducted as a 'Catholic school' in accordance with:

(a) the Code of Canon Law of the Latin Church and the teachings of the Catholic Church.

d) It must also be conducted in accordance with:

(a) the contractual arrangements underpinning the multi-academy company and any general requirements in law.

2. DIOCESAN POLICY AND DIRECTIVES

a) Therefore, a Diocesan Catholic academy must be conducted in accordance with any/all advice and following any/all policies and directives issued by the Diocesan Bishop in accordance with the ecclesial authority of the Bishop concerning the general regulation of schools as provided by the Code of Canon Law of the Latin Church.

3. ESSENTIAL REQUIREMENTS

a) In particular, the following requirements will apply.

(a) Land and Buildings

1. The footprint of land and the buildings in which a Diocesan Catholic academy functions is owned and maintained by the Trustees of the Archdiocese of Birmingham.
2. The buildings must at all times only be used for purposes that are in accordance with the Birmingham Roman Diocesan Trust (BDT), the Code of Canon Law and the doctrinal, social and moral teachings of the Catholic Church.
3. The buildings must be used, maintained and modified in accordance with the lease arrangements agreed with the Trustees of the Archdiocese of Birmingham.

(b) Core purpose - Object

⁴ Ibid

1. A Catholic academy must offer a broad and balanced curriculum and be conducted as a Catholic school in accordance with the Code of Canon Law of the Latin Church from time to time and the doctrinal, social and moral teachings of the Catholic Church from time to time and following the directives and policies issued by the Diocesan Bishop to ensure that the formation, governance and education of the Academy is based on the principles of Catholic doctrine, and at all times serving as a witness to the Catholic faith in Our Lord Jesus Christ.
2. The purpose of a Diocesan Catholic academy within the Archdiocese is to provide a broad and balanced Catholic education inspired by a vision of life with God, the Creator, at its heart as the source and destiny of all human life.
3. The Object in the Articles of Association roots the Academy in its Catholic character and distinctiveness which gives rise to the fruits evidenced in the pupils' spiritual, moral, social and cultural growth and development, as well as their attainment and achievement as they grow and learn as a human person.
4. A Diocesan Catholic multi-academy will also be required to work as an ecclesial communion, in harmonious relationship with other Catholic schools/academies and local schools based on the call of the Gospel to serve those in need and contribute to the common good.

(c) Directors

1. All Directors must uphold the Object and protect the Catholic character of the academies.

(d) Foundation Directors and Academy Foundation Representatives

1. A Diocesan Catholic academy must at all times have such number of Foundation Directors so as to constitute at least a majority of the Directors.
2. The only exception being if the Secretary of State exercises his

power to appoint additional Directors.

3. Each person appointed as a Foundation Director must sign and deliver to the Diocesan Bishop a declaration and undertakings.
4. A Foundation Director shall cease to hold office if he/she is removed by the Diocesan Bishop. The Diocesan Bishop or his representative shall have the right by written notice to remove any Foundation Director appointed by him and to appoint a replacement Foundation Director to fill a vacancy whether resulting from such removal or otherwise.
5. The Foundation Directors, being in the majority, shall ensure that the chairman of the Directors is a Foundation Director, in order to secure the leadership of the board and uphold the Catholic character and distinctiveness of a Diocesan Catholic academy.
6. The Foundation Directors shall ensure any meeting has sufficient Foundation Directors attending so as to form a quorum and the majority of Directors in attendance.
7. The Directors will determine a Code of Practice⁵ to enable the Directors to secure the mission and sustain the Catholic ethos of the academies, as well as ensuring the academies provide a quality educational experience for all their pupils and achieve high standards. The Code of Practice will lay out the protocols and procedures for the functioning of the Directors and any committees and promote the model of communion across the communities of the academies.
8. Paragraphs (d) 1-8 apply equally to the Academy Foundation Representatives on Academy Committees.

(e) Religious education, liturgy, worship, prayer and the whole curriculum

1. Religious education is to be in accordance with the teachings,

⁵ See Model Code of Practice available from DES

doctrines, discipline, general and particular norms of the Catholic Church and taught as a core subject and integrated into other curriculum areas, subject to the regulation and oversight of the Diocesan Bishop. The time allocated to religious education will be in line with advice and guidance from the Diocesan Education Service.

2. Religious worship is to be in accordance with the rites, practices and discipline and liturgical norms of the Catholic Church, subject to the authority of the Diocesan Bishop.
3. The inspection and reporting of religious education, Catholic life and the collective worship of the Academy is to be by persons appointed by the Directors in consultation with the Diocesan Bishop.
4. Sex and relationships education is to be in accordance with the social and moral teachings of the Catholic Church and in consultation with parents of pupils of the academy.
5. The curriculum must promote an authentic culture of vocation, encouraging pupils and staff to interpret their existence in the light of God's plan, with pupils developing and staff modelling an understanding of communal obligations, personal aspirations and their role as citizens in society.

(f) Staff

1. Provided such action is not prohibited by law from time to time in force the Directors shall appoint the Principal(s), any Vice Principal(s), any head of religious education / religious education subject leader(s) and/or any chaplain(s) who must be approved by the Diocesan Bishop and who must be and remain throughout their respective appointments a practising Catholic. The Directors shall use the Diocesan policy *Catholic Schools and the Definition of a Practising Catholic* (Appendix D) to determine the interpretation of 'practising Catholic' as a genuine occupational requirement in academies within the Archdiocese of Birmingham.
2. The Directors will notify any vacancy for a Principal to the Director

of Education of the Diocesan Education Service and give advisory rights to the Director of Education regarding the appointment of any Principal(s).

3. To the fullest extent permitted by law from time to time and in order for the Academy to maintain its religious character, regard will be had by the Directors in connection with the appointment of a person to be a Principal, a Vice-Principal, a head of religious education / religious education subject leader and/or a chaplain to that person's ability and fitness to preserve and develop the religious character of the Academy.
4. To the fullest extent permitted by law from time to time in connection with the appointment, promotion or remuneration of teachers including but not limited to a Principal, a Vice-Principal and any religious education teacher at the Academy regard will be had and preference may be given, to persons:
 - (a) whose religious opinions are in accordance with the tenets of the Catholic faith; or
 - (b) who attend religious worship in accordance with the tenets of the Catholic faith; or
 - (c) who give, or are willing to give, religious education at the academy in accordance with the tenets of the Catholic faith.
5. Regard may be had, in connection with the termination of employment or engagement of any such teacher at the Academy, to any conduct on his part which is incompatible with the precepts or with the upholding of the tenets of the Catholic faith.
6. To the fullest extent permitted by law from time to time, in connection with the appointment, remuneration or promotion of all non-teaching staff where being of the Catholic faith is an occupational requirement and the application of that requirement is a proportionate means of achieving a legitimate aim having regard to the Object and to the nature or context of the work to be carried

out by the member of non-teaching staff in question, preference may be given to a practising Catholic.

7. To the fullest extent permitted by law from time to time, the Academy's contracts of employment will be based on the Catholic Education Service (CES) contracts. Contracts must include a section aimed at securing commitment to the mission, purposes, aims and objectives of Catholic education and the Object and all teaching staff will be required to have regard to the Catholic character of the Academy and not do anything detrimental or prejudicial to the interests of the same. Subject to the same complying with law in force from time to time, the Academy's disciplinary procedures must take account of local model policies produced by the Diocesan Bishop based on the CES/DES model policies.

(g) Admissions Policy

1. The Academy's admission policy must, subject to any and all statutory requirements and common law, comply with the Diocesan Bishop's current model policy for academies issued by the DES, giving priority to baptised Catholic children above others and only using the criterion of practice (in accordance with the definition of practice prescribed by the DES) of the Catholic faith in cases of oversubscription by Catholics.
2. A Diocesan Catholic academy is provided to assist parents, who are the primary educators of their children, in the education and religious formation of their children.

4. CORE PRINCIPLES

- a) The key areas of the distinctive nature of Catholic education are recorded in *Principles, Practices and Concerns* (Bishops Conference 1996) and are to be considered as underlying principles for Catholic schools/academies in the Archdiocese of Birmingham.

(a) The search for excellence as an integral part of the spiritual quest.

- (b) The uniqueness of the individual made in God's image and loved by Him.
 - (c) The education of the whole person based on the belief that the human and divine are inseparable.
 - (d) The education of all with the particular duty to care for the poor and disadvantaged.
 - (e) Moral principles put into practice within a Christian community.
- b) The following principles recorded in *The Common Good in Education* (Bishops' Conference 1996) also apply:
- (a) Subsidiarity – which means decisions being taken as close to the grass roots as good government allows.
 - (b) Solidarity – which means we are all responsible for each other, with a willingness to see others as self.
 - c) The Church also promotes the principle of community cohesion. Thus, Catholic schools/academies must continue to look outwards and work appropriately in partnership with all other schools in the wider community, Catholic or otherwise, to the benefit of all children in society.

5. GOSPEL VALUES

- a) The spirituality at the heart of a Diocesan Catholic academy will promote a life-long development of faith and a personal relationship with God, through Jesus Christ and his Church and ecclesial communion with other academies.
- b) Catholic academies promote shared values that constitute the qualitative targets and personal outcomes which underpin the educational enterprise of Catholic education. Those core values are:
 - (a) faithfulness and integrity;
 - (b) dignity and compassion;
 - (c) humility and gentleness;

- (d) truth and justice;
- (e) forgiveness and mercy;
- (f) purity and holiness;
- (g) tolerance and peace.

- c) Within a Catholic academy, leaders, teachers and governors are expected to model these values as well as teach them through the curriculum; thus revealing who they are by living what they believe.

6. REVIEW

- a) This policy may be reviewed and revised at any time in accordance with the wishes of the Diocesan Bishop.

Margaret Buck
Associate [Director Level]

Diocesan Education Service
Archdiocese of Birmingham

January 2012

Appendix D

ARCHDIOCESE OF BIRMINGHAM

DIOCESAN EDUCATION SERVICE

DIOCESAN POLICY and STRATEGY for SCHOOLS and ACADEMIES

regarding

PROVISION, ACCOUNTABILITY, IMPROVEMENT, SUPPORT AND INTERVENTION

To be used in a CATHOLIC MULTI-ACADEMY

in the ARCHDIOCESE of BIRMINGHAM

under the CANONICAL AUTHORITY of the ARCHBISHOP of BIRMINGHAM

1. INTRODUCTION

Key question: What is the relationship between the Bishop and the schools and academies within the Diocese?

- a) The most fundamental partnership that exists and which must be sustained and developed is between the Archbishop of Birmingham and each Diocesan school or academy.
- b) Within the Catholic Church, this partnership provides the source of the authentic ecclesial foundation of all schools and academies and is core to:
 - (a) understanding why the Diocese provides school and academies, i.e. their mission;
 - (b) the core characteristics, principles and values that must underpin the provision of Catholic education in the Diocese;
 - (c) what the schools and academies aim to achieve, i.e. their vision;
 - (d) how schools and academies can strive individually and collectively - in communion within the Catholic Church - to translate the vision into reality, be effective and secure their mission.

2. MISSION

Key question: Why does the Diocese provide schools and academies?

- a) The mission of a Catholic school, as defined in the Church's teaching is to:
- (a) assist in the mission of making Christ known to all people;
 - (b) assist parents, who are the prime educators of their children, in the education and religious formation of their children;
 - (c) be of service to the local Church, - the Diocese, the parish and the Christian home;
 - (d) be of service to society.
- b) These key reasons why the Catholic Church provides schools are the touchstone for the Diocese when determining the character, purpose and effectiveness of any individual Catholic school or academy.
- c) Together, Diocesan schools and academies offer service to the Archbishop of Birmingham (which fulfils his canonical responsibilities) to provide education across the Diocese, primarily for baptised Catholic children.
- d) In general, for a school or an academy '*to bear the title*⁶ as a Catholic school or academy it must be by the consent of the '*competent ecclesial authority*⁷', i.e. the Archbishop of Birmingham in the case of Diocesan schools and academies, and '*it must be under the control of*⁸ the Bishop of the Diocese (i.e. the Archbishop of Birmingham), conducted as a 'Catholic school' in accordance with:
- (a) the Code of Canon Law of the Latin Church and the teachings of the Catholic Church;
- and
- (b) the object of the Birmingham Diocesan Trust;
- and

⁶ Code of Canon Law 803.3

⁷ Code of Canon Law 803.1

⁸ Ibid

(c) the object of the multi-academy company, if an academy;

or

(d) the ethos statement in its Instrument of Government, if a school.

- e) Diocesan schools and academies are an integral part of the Church and its educative mission; they are bound by both canon and civil law. Therefore, a voluntary-aided Catholic school must also be conducted in accordance with any general requirements in civil law established by parliamentary legislation. A Catholic academy must be conducted in accordance with the contractual arrangements underpinning the multi-academy company and any general requirements in civil law.

3. DISTINCTIVE CHARACTERISTICS

Key question: What distinctive characteristics of Diocesan schools and academies are not negotiable?

- a) Aspects of voluntary-aided status, rooted in parliamentary statute, protect the distinctiveness of Catholic schools. These features are also non-negotiable with respect to academy status within the Diocese and thus are written into the legally binding documentation which must be used to establish an academy as a company limited by guarantee.
- b) The distinctive characteristics that are non-negotiable are as follows:
- (a) The Trustees of the Archdiocese of Birmingham retain **ownership of the land and buildings** in which a Diocesan Catholic school or academy is maintained or provided.
- (b) In the case of a voluntary-aided school the **Instrument of Government** which protects the Catholic ethos, character and purpose. (All governors must ensure the school is conducted in accordance with its Instrument.)
- (c) In the case of an academy **the Object** which protects the Catholic ethos, character and purpose. (All Directors must uphold the Object.)
- (d) The **role and responsibilities of the Foundation**

Governors/Directors appointed by the Diocesan Ordinary (the Archbishop) and who are in the majority on the Governing Body/Board of Directors.

- (e) **Religious education, liturgy, collective worship, prayer** and the **whole curriculum** must be in accordance with the norms and teachings of the Catholic Church.
- (f) **The Headteacher/Principal, Deputy Headteacher/Vice-Principal, Head of Religious Education/Religious Education subject leader and chaplain must be practising Catholics** and there is the right under employment legislation to give preference to Catholic teachers and support staff where there is a genuine occupational requirement in VA and independent schools (i.e. academies).
- (g) The **admissions policy**, in accordance with the Diocesan model policy, gives priority to baptised Catholic children.

4. CORE PRINCIPLES

Key question: What are the core principles that must underpin the provision of Catholic education in Diocesan schools and academies?

- a) The key areas of the distinctive nature of Catholic education are recorded in *Principles, Practices and Concerns* (Bishops' Conference, 1996) and can be considered as underlying principles:
 - (a) The search for excellence as an integral part of the spiritual quest.
 - (b) The uniqueness of the individual made in God's image and loved by Him.
 - (c) The education of the whole person based on the belief that the human and divine are inseparable.
 - (d) The education of all with the particular duty to care for the poor and disadvantaged.
 - (e) Moral principles put into practice within a Christian community.

b) And, the following principles recorded in *The Common Good in Education* (Bishops' Conference, 1996) also apply:

(a) Subsidiarity – which means decisions being taken as close to the grass roots as good government allows.

(b) Solidarity – which means we are all responsible for each other, with a willingness to see others as self.

c) The Church also promotes the principle of community cohesion.

(a) Thus, Catholic schools must continue to be inclusive, look outwards and work in partnership with all other schools in the wider community, to the benefit of all children and young people in society; they too are part of God's creation.

5. VALUES

Key Question: What are the values which must underpin the provision of Catholic education in Diocesan schools and academies?

a) Catholic schools promote shared values that form the heart of the teaching of Christ in the Beatitudes and the moral and social teachings of the Catholic Church.

b) The values constitute qualitative targets and personal outcomes that underpin the educational enterprise of Catholic education. The core values are:

(a) faithfulness and integrity;

(b) dignity and compassion;

(c) humility and gentleness;

(d) truth and justice;

(e) forgiveness and mercy;

(f) purity and holiness;

(g) tolerance and peace.

- c) Within a Catholic school or academy, the Headteacher/Principal, Deputy Headteacher/Vice-Principal and Foundation Governors/Directors, as well as teachers who are Catholic, are expected to model these values as well as teach them through the curriculum; thus revealing who they are by living what they believe. All other Governors/Directors and staff are also expected to uphold the core values of the community in the way they conduct themselves professionally.

6. VISION

Key question: What is the vision for Catholic education in the Diocese?

- a) The vision is that all schools operating under the Trust of the Archdiocese of Birmingham and academies operating under the umbrella of a new charitable holding company, The Barberi and Newman Academy Trust (BNAT), will aim to:
- (a) provide a broad and balanced high quality Catholic education for the children and young people entrusted to their care inspired by a vision of life with God, the Creator, at its heart as the source and destiny of all human life;
 - (b) work in ecclesial communion⁹ with the Archbishop to enable him to fulfil his canonical responsibilities, by providing Catholic education to support parents in their duties as the prime educator of their children;
 - (c) embrace the understanding that no-one can be a Christian alone; Christians gather together (the meaning of 'church'): to express and deepen their faith; to be strengthened for the journey of following Jesus in their lives; and to serve those in need;
 - (d) understand that although distinct communities, they are in communion as part of a larger whole, the Church, with a common life and a common mission, and they are gathered together beyond their individual identities in Christ's name, reflecting the unity and educative

⁹ Ecclesial communion – i.e. the diocesan family of schools that enable the Bishop to fulfil his canonical responsibilities

mission of the Church.

b) The governance, leadership and management of schools and academies will:

- (a) put Christ who is the 'way, the truth and the life' at the centre of all policy and practice, all that is said and done within the community;
- (b) give witness to the presence of God, the authentic daily living of the values of the Gospel and the moral and social teaching of the Catholic Church, which flows from those values;
- (c) implement the ethos statement within the Instrument of Government or the Object into all aspects of the school's or academy's life to embed a culture where every human person has the opportunity to grow in knowledge and love of God, in the way of Christ, through the power of the Holy Spirit;
- (d) pursue the Church's educative mission as expressed in the four reasons why the Catholic Church provides schools;
- (e) commit to the key characteristics of distinctiveness, the 'non-negotiables', required of Catholic schools and academies in the Diocese;
- (f) support the core principles and policies promoted by the Bishops' Conference for England and Wales;
- (g) act at all times in accordance with Gospel values;
- (h) secure and sustain an outstanding Catholic education which is ambitious for children and young people and enables them to grow to maturity with an understanding of the origin, meaning and purpose of the gift of life;
- (i) conduct the school with a view to promoting high standards of educational achievement and have high expectations that children and young people will become the best they can be as human persons created by God, called to know, love and serve Him, with an eternal

destiny;

- (j) take a rigorous and robust approach to: evaluating and improving quality and performance; developing capacity for sustained improvement; building leadership capacity; and expecting the highest professional standards from all staff;
- (k) commit to pursuing and agreeing collaborative practice to achieve transformation in communion with other Catholic schools and academies;
- (l) ensure they continue to work in partnership with all other local schools and academies to ensure justice for all children and young people in their local neighbourhood, the wider community and society at large;
- (m) invest for the longer-term in civil society by evangelising the wider culture.

c) The senior leaders, teachers and support staff will¹⁰:

- (a) be ambitious for pupils in a holistic sense, promoting their religious, spiritual, moral, social and cultural development, ensuring they have an equal and fair chance to thrive and learn;
- (b) have consistently high expectations of pupils, reflected in their teaching and planning, including curriculum planning, to extend the previous knowledge, skills and understanding of all pupils in a range of lessons and activities over time;
- (c) ensure teaching enables pupils to develop knowledge, understanding and skills through experience of a broad and balanced curriculum, particularly in religious education, reading, writing, communication and mathematics;
- (d) ensure well judged teaching strategies, including setting challenging tasks matched to pupils' learning needs, successfully engage all pupils in their learning;

¹⁰ See The Framework for School Inspection from January 2012 Ofsted

- (e) secure high quality learning by setting challenging tasks that are matched to pupils' specific learning needs;
- (f) ensure pupils understand how to improve their learning as a result of frequent, detailed and accurate feedback from teachers following accurate assessment of their learning;
- (g) promote questioning and use of discussion promote learning;
- (h) maximise the pace and depth of learning as a result of teachers' monitoring of learning during lessons and any consequent actions in response to pupils' feedback;
- (i) enthuse, engage and motivate pupils to learn and foster their curiosity and enthusiasm for learning;
- (j) use their expertise, including their subject knowledge, to develop pupils' knowledge, skills and understanding across a range of subjects and areas of learning;
- (k) enable pupils to develop the skills to learn for themselves, where appropriate, including setting appropriate homework to develop their understanding;
- (l) ensure the quality of teaching and other support provided for pupils with a range of aptitudes and needs, including for those with special educational needs and/or disabilities, so that their learning improves.

d) The parents will be encouraged and supported to:

- (a) fulfil their duties and responsibilities as the primary educators of their children;
- (b) engage in an appropriate partnership with the schools or academies educating their children, with a voice that is heard and listened to, offering support to the educative process in a relevant and productive manner;
- (c) support an education based on the unchanging values of the Gospel.

e) The parishes will be encouraged to:

- (a) work in partnership with their local Catholic schools and academies to make real the experience of communion within the local and universal Church as part of the Church's mission;
- (b) help provide for pupils' religious and spiritual education, formation and development through their experiences of liturgy, prayer, worship and their reception of the sacraments as part of the parish family;
- (c) support parents as they nurture their children in an education based on Gospel values.

7. THE LEGAL FRAMEWORK FOR SCHOOLS AND ACADEMIES IN THE DIOCESE

Key question: What are the purposes of the Diocesan Trust and the Academy Trust within the Diocese?

- a) Voluntary aided (VA) schools operate under the Birmingham Diocesan Trust (BDT).
- b) The BDT has set up a different corporate holding company The Barberi and Newman Academy Trust (BNAT). Except in exceptional circumstances The Barberi and Newman Academy Trust is the sole "member" behind each multi-academy company, holding the Directors to account. The buildings used for academy provision are leased from the BDT.
- c) There are legal and accounting reasons why the member of each academy company should not be the BDT.
- d) The BDT and BNAT exist separately under charity commission laws with the common core purpose to provide Catholic education for Catholic children and families in the Archdiocese of Birmingham to enable the Archbishop to fulfil his canonical responsibilities.

8. TYPES OF DIOCESAN CATHOLIC EDUCATIONAL PROVISION

Key question: What is the framework of educational provision within the Diocese that enable visions to be translated into reality?

a) Voluntary aided schools

(a) A Diocesan voluntary aided school is a school where the building and some or all of the land is owned by 'a charitable organisation', i.e. the Trustees of the Archdiocese of Birmingham, and the Diocesan Ordinary (the Diocesan Bishop) appoints the majority of the Governors (Foundation Governors).

(b) Voluntary aided schools are 'maintained schools', meaning they receive all their running costs from central government via their local authority (LA) to maintain the provision of education in the building which is provided by the Trustees.

(c) The Governors are the 'authority' for the school; they are the employer of all staff and determine all policy, including the admission policy, which is based on the Diocesan model policy. The Governing Body contributes to the buildings and maintenance costs.

(d) The Catholic character, the 'non-negotiables', are secured through legislation in force from time to time, flowing from the 1944 Education Act and subsequent legislation.

(e) The Governing Body is responsible for raising standards through its 3 key roles of:

1. setting the strategic direction;
2. ensuring accountability;
3. monitoring and evaluating school performance.

(a) The Governing Body is accountable to the LA for the quality of education provided in the school and the outcomes achieved.

(f) The LA can use its powers to intervene where a VA school is judged to be giving cause for concern. The DES works in partnership with the LA to ensure the Governing Body and Headteacher know and understand the reasons for intervention and the need to secure rapid improvement.

b) Academies

- (a) Academies are publicly funded independent schools, free from local authority control.
- (b) The Trustees of the Archdiocese of Birmingham will give approval to a minimum of two, or more, Diocesan voluntary aided schools to convert to academies within a multi-academy company (MAC), thus ensuring individual academies are structurally bound together part of a strong, structural, Catholic, educational framework supporting each other and their Catholic and local communities.
- (c) In establishing a multi-academy the door would remain open to other local Catholic schools if they wished to convert and join the multi-academy company at a point in the future.
- (d) Individual voluntary aided schools will not gain approval to convert as individual academies since this form of conversion is not judged to be in the strategic interests of an individual school over the long-term. Within the context of the Diocesan family, neither is the idea of creating a totally separate legal entity coherent with the Church's understanding of our communion through, with and in Christ.
- (e) All voluntary aided schools in the Diocese legally operate under a single Trust and therefore are structurally bound together in a single Diocesan family of Catholic schools. Those same voluntary aided schools are maintained by their particular LA and through that relationship of 'maintenance' are legally parts of other local families of schools.
- (f) The unprecedented changes to the legal status, ownership and maintaining infra-structure of voluntary aided schools, as well as the evolution of a totally new legal infra-structure for academies make the nature of long-term challenge and support and services available to both schools and academies uncertain.
- (g) Legally, structurally and in practice a single academy is totally independent and without any support beyond its own resources, whether human, financial or material. Clearly, the Diocese needs to consider the longevity of both VA schools and academies in determining the nature of provision for the long-term and in seeding the ground for

a self-improving school system.

- (h) The consequences of change, legally and structurally, are yet to be seen and the Trustees must look to the long-term in protecting the future of Catholic educational provision in the Diocese.
- (i) In terms of governance, a multi-academy company is established as a company limited by guarantee. This type of company has no shareholders, but instead has The Barberi and Newman Academy Trust as the sole first "member" of the multi-academy company – "the Founder Member". The multi-academy company has a Board of Directors who is accountable to the Founder Member and to the Diocesan Bishop for their strategic role in running all the academies which are established as part of the multi-academy. Foundation Directors appointed by the Diocesan Bishop, form the majority of the Board of Directors of each multi-academy company.
- (j) The Board of Directors is responsible for the strategic running of each academy within the multi-academy (although the day-to-day management of the individual academies are, as in most schools, conducted by the Principals, supported by teams of senior leaders and managers).
- (k) There is a suite of legal documents that must be used to set up a multi-academy in the Archdiocese of Birmingham and include: The Articles of Association; The Master Funding Agreement; the Supplemental Funding Agreement; the Lease and the Scheme of Delegation. Only these documents may be used and no alterations may be made to them because they have been agreed between the Trustees and the DfE.

c) Use of language

- (a) The legal nature of the provision of education in a school or an academy is fundamentally different; schools are based on parliamentary law, academies on company law, consequently it is important to use language that helps to communicate the legal differences.

(b) Therefore, schools will continue to use the terms: school; governing body; governors; headteacher and deputy headteacher. Academies will use the terms: company; multi-academy company; academy; Board of Directors; Directors; principal and vice-principal. This vocabulary should be used to ensure clarity and embed a shared understanding.

(c) The term 'governance' can be used with reference to either a company or a school. Also, the word 'school' may be used in a generic sense (as it is in this policy on a few occasions) to mean an educational establishment, whether it is a VA school or an academy.

9. THE DIFFERENT MODELS OF GOVERNANCE THAT CAN BE USED IN SCHOOLS AND ACADEMIES IN THE DIOCESE

Key question: What is the nature of governance that holds the schools and academies to account for the quality of Catholic life and the standards achieved?

a) A single school with its own governing body

(a) 'A school' as an individual legal entity is governed by a single Governing Body. The Governors establish the strategic framework by:

1. setting the aims and objectives for the school;
2. adopting policies to achieve those aims and objectives;
3. determining priorities, which affects resourcing decisions in order to secure the aims and objectives;
4. setting targets for define success in terms of achieving the aims and objectives and addressing priorities;
5. agreeing plans that will drive improvement;
6. monitoring and evaluating progress towards the achievement of those plans and the impact;
7. regularly reviewing the strategic framework for the school in light of

that progress and impact.

- (a) The school self-evaluation framework and improvement plan will generally provide the main mechanisms for the strategic planning process.
- (b) The Headteacher has responsibility for the internal organisation, management and control of the school and the implementation of the strategic framework established by the Governing Body.

b) Collaboration

- (a) Under The School Governance (Collaboration) (England) Regulations 2003 the term 'collaboration' has a particular currency used to reference a form of partnership working between maintained schools only.
- (b) The Regulations enable all maintained schools (e.g. VA schools) to have increased collaborative arrangements with other maintained schools, including joint meetings of Governing Bodies and establishing joint committees.
- (c) Two or more Governing Bodies may arrange for any of their functions to be discharged jointly. They may delegate any of their functions to a joint strategic committee in the same way as they delegate them to a single committee, outlined in The School Governance (Procedures) England Regulations 2003.
- (d) Schools can develop 'collaborative governance' which means the individual Governing Bodies delegate some of their powers to a joint strategic committee so that decisions can be taken by that committee, which are binding on both schools.
- (e) Schools with collaborative arrangements may jointly appoint staff. For example, schools in collaboration may share the same Headteacher, or each school may have its own Headteacher.
- (f) Catholic schools may collaborate together and one or more Catholic schools may collaborate with one or more non-Catholic schools. In all

cases collaboration may be achieved by drawing up a Memorandum of Understanding (MoU) between the participating schools. **The DES must be invited to offer advice in all cases. This is so that the interests of the Trustees are protected, as well as the Catholic ethos of their schools, if collaboration involves non-Catholic schools¹¹.**

(g)The Trustees will expect Foundation Governors to ensure the school complies fully with this requirement before there are any serious discussions with other Catholic schools, non-Catholic schools or LAs regarding collaboration so that participating communities are able to manage their expectations in a positive manner and progress business appropriately.

(h)Collaboration Regulations prescribe a framework for maintained schools; the regulations do not apply to academies. However, if Catholic academies wish to work with Catholic VA schools this can be achieved using a Memorandum of Understanding (MoU). **The DES must be invited to offer advice in all cases.** The Trustees will expect Foundation Directors to ensure the academy complies fully with this requirement.

c) **Federation**

(a)Under The School Governance (Federation) (England) Regulations 2004 the term 'federation' has a particular currency. Two or more maintained schools (e.g. VA schools) are able to federate under a single Governing Body.

(b)If schools wish to federate, there is a formal procedure that must be followed, outlined in The School Governance (Procedures) (England) Regulations 2003. There is also further information in The School Governance (Federations) (England) Regulations 2012.

(c)Very rarely, in exceptional cases in order to progress a federation of VA schools it may be necessary to apply for the Power to Innovate.

¹¹ See DES Policy and Guidance on Collaboration, Collaborative Governance and Federation for further information

Through the Power to Innovate option the Secretary of State for Education is able, temporarily, to suspend or modify education legislation that may be holding back, or even stopping, innovative approaches to raising standards.

(d) Schools in a federation have a single employer, the Governing Body, which employs all the staff in all the schools.

(e) All or some of the schools in a federation may share the same Headteacher, or each school may have its own Headteacher; it is the nature of governance that determines the legal status of a federation not the nature of the leadership arrangements.

(f) Diocesan Catholic schools may federate with each other; as a rule Diocesan schools will not be allowed to federate with non-Diocesan schools because of potential implications flowing from their Trust status.

(g) **Where Catholic schools wish to federate, the DES must be invited to offer advice in all cases before there are any serious discussions,** so that the strategic interests of the Trustees are protected and from the outset the Catholic communities are able to manage their expectations in a positive manner.

(h) Academies may not legally federate since the Regulations only apply to maintained schools.

d) **Multi-academy**

(a) A multi-academy is an independent corporate entity, registered as a company at Companies House and operating under Articles of Association and general company law.

(b) In the Archdiocese of Birmingham an individual academy may not be established as a separate company in its own right. Academies may be established as individual units operating as parts of a multi-academy company and reporting to the multi-academy company's Board of Directors.

- (c) In this multi-academy company each academy has a local academy committee which deals with individual school-based matters and local issues, in accordance with the Diocesan Scheme of Delegation for a multi-academy company.
- (d) If individual academies within a multi-academy company wish to work legitimately with other schools or academies outside the membership of the multi-academy, the Board of Directors may permit that partnership working for any individual academy by agreeing a Memorandum of Understanding (MoU) with those external partners.
- (e) **The DES must be invited to offer advice in all cases. This is so that the interests of the Trustees are protected, as well as the Catholic ethos of the academies if the arrangement involves non-Catholic schools or academies.** The Diocesan Bishop and Trustees will expect Foundation Directors to ensure full compliance with this requirement before there are any serious discussions with other Catholic academies/schools, non-Catholic schools/academies or LAs so that the strategic interests of the Trustees are protected and from the outset the communities are able to manage their expectations in a positive manner.

10. MODELS OF LEADERSHIP AND MANAGEMENT WITHIN THE DIOCESE

Key question: How can models of leadership contribute to securing the Catholic life and improve standards within and between schools and academies?

a) Headteacher (in a VA school) / Principal (in an academy)

- (a) A 'Headteacher' may lead and manage a single school, or more than one school under collaboration regulations, or as the employee of the single Governing Body of a federation of two or more schools.
- (b) As the employee of the Board of Directors of a multi-academy a 'Principal' may lead and manage a single academy or more than one academy within the multi-academy.

b) **Executive Headteacher** (of VA schools) / **Executive Principal** (in a multi-academy)

(a) The informal term 'Executive Headteacher' is commonly used by LAs, dioceses and the National College to distinguish between the nature of the role and responsibilities of a Headteacher of a single school and a Headteacher who fulfils that role and responsibilities in more than one school.

(b) The formal term 'Executive Principal' is defined in Diocesan academy documents to mean, *"such person as may be appointed by the Directors as the executive principal of the company with line management responsibility over all the academies' principals and who is responsible for standards in all the academies"*.

1. It is worth noting that the term 'the Executive Principal' is a completely different role to that of 'an Executive Headteacher'.
2. For example, within a multi-academy of perhaps six academies a 'Principal' may run two of the academies but would not be classed as 'the Executive Principal' as defined above, i.e. running all the academies. Whereas if any 'Headteacher' runs more than one school it is normal practice to refer to them as 'an Executive Headteacher'.

(c) Those leaders who offer leadership beyond their own school or academy are referred to as 'system leaders'. System leaders impact positively on the quality of provision and children's achievement in the wider educational system and not just in a single school or academy.

(d) System leaders are often outstanding Headteachers or Principals, however they also identify, grow and develop system leadership qualities and behaviours in other leaders at all levels in their schools/academies and deliberately promote partnership competencies in their staff. They demonstrate and model 'partnership competencies', which are vital to working across the system.

11. SCHOOL IMPROVEMENT AND CAPACITY BUILDING STRATEGIES

Key question: *How can schools and academies ensure they have*

appropriate 'strategies for improvement' to drive, build and sustain capacity for improvement?

- a) Diocesan schools and academies need to be at least good schools with a determined ambition to be outstanding that arises from a belief in and commitment to the Catholic faith which recognises, celebrates and protects the origins and dignity of the human person, called to know, love and serve God.
- b) In *Christ at the Centre* it states, "... the Church provides schools to be more than just places where pupils are equipped with learning and skills for the workplace and responsible citizenship. Rather they are to be communities where the spiritual, cultural and personal worlds within which we live are harmonised to form the roots from which grow our values, motivation, aspirations and the moral imperatives that inform our choices and actions as persons."¹²
- c) Canon 806§2¹³ states, "Those who are in charge of Catholic schools are to ensure, under the supervision of the local Ordinary, that the formation given in them is, in its academic standards, at least as outstanding as that in other schools in the area"¹⁴.
- d) In order to achieve and sustain high-quality provision and good outcomes for children, individual schools/academies will have appropriate 'internal strategies for improvement'.
- e) The term 'intervention' is better understood as action that needs to be taken with respect to a school/academy giving cause for concern, underperforming, vulnerable or at risk and will be from external sources, since the school/academy lacks the internal capacity to drive and sustain their own improvement.
- f) **Internal strategies for improvement** and capacity building

¹² Christ at the Centre by Rev Marcus Stock SLT MA

¹³ The Code of Canon Law

¹⁴ It is important that the term 'outstanding' should not simply be interpreted in accordance with Ofsted criteria since the use of the term in Canon Law pre-dates the definition of the Ofsted category and the Church's interpretation of 'outstanding' does not depend simply on secular criteria

- (a) Governors or Directors must hold the Headteacher or Principal to account for the quality of the Catholic life of the school or academy and the standards achieved by pupils.
- (b) To be effective, Governors/Directors must ensure that their school(s) or academies have: clear policies; a collective ambition to pursue excellence in all activities; and drive their own internal mechanisms and systems for securing and sustaining improvement in order to achieve outstanding provision, practice and the highest standards.
- (c) Governors/Directors must give specific attention to policy regarding key aspects of provision that impact sharply on pupils' learning and outcomes, namely:
1. Robust examination of practice and precise self-evaluation as a Foundation to drive improvement policy, planning, implementation, monitoring, evaluation and review.
 2. Curriculum policy and practice that brings harmony to the pupils' spiritual, cultural and personal worlds and gives them roots to grow values, motivations, aspirations and moral imperatives so that they may embrace life-long learning as human persons.
 3. A policy for high quality teaching that enables every pupil to enjoy learning, do his or her best, achieve well and grow as a human person.
 4. A rigorous policy for assessment for learning, developmental marking, regular pupil-progress tracking and sharply-focused target setting so that every pupil's needs are respected and met.
 5. A robust policy for a scheduled approach to monitoring, evaluation and review that reports success and areas for improvement with respect to impact measures to Governors/Directors, those with leadership responsibilities, staff and other stakeholders.
 6. A policy for focused continuous professional development to enable all staff support pupils' learning and development as human persons.

7. A policy for provision and opportunities for leadership formation and management development that embeds justice and ambition for every child and young person in the motivations of all who aspire to lead effectively at all levels.
 8. Succession planning policy and practice that grows future leaders for Catholic schools and academies, who understand and commit to the Gospel values of service and sacrifice as well as being motivated to achieve success.
 9. Policy on recruitment and selection approaches that primarily secures high-quality teachers, whilst giving genuine occupational preference to high-quality Catholic teachers who thus can be encouraged to lead outstanding Catholic schools/academies in the future.
- (d) For various reasons from time to time all good and outstanding schools and academies will seek enrichment through external advice, guidance, support and challenge in order to: boost the pace of improvement; gain from the exchange of knowledge; and build the capacity for continuous improvement within the school or academy community.
- (e) Such engagement is vital if good schools/academies are to move to outstanding and outstanding schools/academies are to retain their quality and their capacity to work beyond their own establishment.
- (f) The management decisions to draw in intellectual capital from external sources will be driven by strategic thinking to add-value to effective policy and practice; deliberate actions will be planned and appropriately resourced rather than being random or spontaneous without clear purpose, intended outcomes or measurable success criteria.
- (g) The motivations and nature of external enrichment is substantially different to 'external intervention'.
- g) **'School to school' strategies for improvement** and capacity building
- (a) All schools and academies need to give consideration to working with other schools and academies in ways that enable the school system to

become the major agent of its own improvement. This approach should limit the number of schools or academies categorised as 'causing concern' and the need for external intervention. This approach should also be used to address the issue that being a satisfactory school or academy is not good enough in terms of the pupils' best interests and their entitlement to a 'good' education.

- (b) The DfE is promoting 'school to school' strategies for improvement and quality training and development directly through collaboration between schools and academies. LAs are increasingly commissioners rather than providers of services; and where services are available they are more often than not traded services. The Government believes schools and academies should be free to determine how they drive forward successfully their fundamental responsibility for improving standards.
- (c) At a local level, system-wide approaches can drive the rate and depth of change, improvement and transformation in all schools and academies working in a variety of partnerships. The focus should be on improving leaders' and teachers' moral purpose, knowledge, skills, expertise and performance and consequently impacting on the standards achieved by pupils.
- (d) The 'self-improving system of schools' (SISS)¹⁵ approach can also embed in pupils shared attitudes and behaviours that support life-long learning across the whole neighbourhood community, beyond the boundary of any individual educational establishment; those shared attitudes and behaviours finding their roots in the beliefs, values and principles of their educational communities. One significant consequence being, that the wider school system could support children and young people into mature citizenship rooted in a neighbourhood-wide commitment to social justice and the common good.
- (e) Whilst protecting at a structural level the ownership, identity, governance, distinctive Catholic character and leadership of its schools

¹⁵ Creating a Self-improving School System David H Hargreaves, National College, 2010

and academies, in the interests of system-wide improvement the Diocese will also encourage appropriate 'partnership'¹⁶ at a local level with all other types of schools and academies.

(f) From the Diocesan perspective, a 'self-improving system of schools' (SISS) must enable Catholic schools and academies to form logical, coherent, structurally secure groupings as part of the Church for the long-term irrespective of: the temporary influence of personality within any local group; the nature of personal relationships between key players; and relatively short-term aspirations and drivers.

(g) **The prime drivers needed to guide and direct strategic thinking and planning about Catholic schools and academies working in communion to secure their mission are:**

1. a strong **moral purpose** to make a difference to the lives and learning of children and young people in all Diocesan schools and academies;
2. the imperative to provide **an education in the faith** for children and young people from their early years to adulthood, which meets the needs of Catholic families living in their local community;
3. a recognition of the need to develop a **strong relationship between home, school and parish** in order to support parents and secure their support for the mission and values of the Catholic education;
4. the need to **perceive all Diocesan schools and academies as a wider ecclesial communion** where every Catholic school is a resource to others and each may look to all others for support;
5. a commitment to **self-improving and sustainable local 'communities'**¹⁷ of Catholic schools which can work with **collective responsibility to secure, support and strengthen**

¹⁶ 'Partnership' here means any relationship that does not undermine the interests and rights of the Trustees or the governance of Diocesan schools and academies

¹⁷ 'Communion' – i.e. a group of Catholic schools or academies only, bound structurally by a formal shared governance arrangement

each other in their educative mission, (as well as with other schools) and in doing so enable all children to achieve well.

(h) In the context of a SISS approach, the formal governance arrangements binding Catholic schools into collaborative governance or federation, or Catholic academies into a multi-academy company, provide:

1. the **legal context for the deployment** of outstanding headteachers/principals and other effective senior leaders and teachers beyond the boundaries of their own schools/academies to help other members of the communion;
2. **shared policies and approaches to monitoring and evaluation** that can bind all schools/academies into an agreed consistent and cohesive framework of best practice and create a self-improving school system (SISS) at a local level, where the member schools/academies accept responsibility for self-improvement for the communion as a whole;
3. the **framework for shared practice** with respect to identifying, sharing and growing professional knowledge, understanding, skills and expertise, which drives up standards in all the schools/academies by embedding a culture of professional learning within and between members of the communion.

(i) Headteachers/Principals retain **individual accountability** for standards in their school/academy, whilst sharing **collective responsibility** for improving all schools/academies in the communion. They achieve this by committing to **collaborative action** to enable all children and young people in the schools/academies to be the best they can be, strengthen their local communities and grow emerging citizenship to maturity at a local level.

(j) Considerable benefits potentially accrue to communions¹⁸ of Catholic schools or academies, which may be formed structurally as

¹⁸ See Creating a self-improving school system David H Hargreaves, National College 2010

collaborative governance, federations or multi-academies. They may:

1. find it easier to meet the needs of every student; since the range of provision, including curricular and 14-19 provision, is much greater than that of a single school/academy;
2. deal more effectively with special educational needs, especially when professional expertise in particular aspects of such needs is shared or resourced between schools/academies;
3. find it easier to meet the needs of every staff member since staff can job-rotate or be offered fresh opportunities between establishments, and access quality school-based professional development, enriched by the resources of the communion;
4. support new leaders since the existing Headteachers/Principals and leaders in the communion are at hand to support the newcomer;
5. build leadership capacity and boost succession planning since staff are interchangeable within the communion of schools or multi-academies;
6. protect their members, for while even the most successful schools/academies are vulnerable to crisis and failure, if this happens to a school or academy in a communion/multi-academy, other members share an early warning – earlier than Ofsted – and may intervene with immediate support without provoking defensive resistance;
7. distribute innovation by sharing the costs, in time and resources, of new developments, and by working with other partners, such as business, further and higher education, and teaching schools and NC licensed providers;
8. transfer professional knowledge more readily through joint professional development and the ease of mentoring and coaching;
9. aid the integration of children's services because external agencies find it more efficient to work with a communion than with separate

establishments;

10. become more efficient in the use of resources because schools/academies share both material resources, (e.g. expensive technology or sports facilities) and human resources (e.g. financial services), especially in primary settings.

h) **External intervention** to secure and drive rapid improvement and build capacity

(a) Schools and academies from time to time require external intervention because they have insufficient capacity in terms of:

1. driving their core moral purpose;
2. their intellectual capital of knowledge, skills and expertise;
3. their social capital of professional relationships and trust as a learning community; and
4. the effectiveness of their distributed leadership to drive improvement,
5. ensuring that all pupils make good progress.

(b) Such schools and academies may be those which have:

1. been judged by Ofsted to require improvement, a notice to improve or special measures;
2. vulnerability due to the evidence of their performance data;
3. vulnerability in relation to their leadership and management capacity;
4. causes for concern related to: pupil progress; the trajectory of improvement; confidence of staff and/or the community in the leadership of the school; issues related to governance, morale and so-on.

(c) VA maintained schools, where there is cause for concern, should

receive external intervention through their local authority because they are 'maintained' by the LA, which retains statutory responsibility for intervention. External intervention may be provided directly as an LA service or commissioned by the LA, depending on the approach to supporting schools causing concern favoured by the particular local authority. Increasingly, LA intervention will be commissioned from other outstanding LA schools and academies. LAs have the responsibility for communicating 'early-warning' of concerns to Governors and the Diocese with respect to the Catholic schools they maintain. Where necessary when external intervention is required, the LA has the legal option of suspending a Governing Body and establishing an Interim Executive Board (IEB) to run a school judged to be causing concern.

(d) Academies will need to determine how they will access the equivalent to LA 'early-warning', monitoring, moderation, evaluation and review in order to avoid the necessity for external intervention. Preventative sources of support may include: the use of external assessment and moderation from outstanding serving Headteachers/Principals, traded LA school effectiveness and improvement services and other independent school improvement services from reputable, quality-assured organisations. It is the Directors' responsibility to ensure value for money, when purchasing external support, advice and guidance.

(e) If an academy is judged to be failing the Secretary of State has the power to intervene as detailed in the Diocesan academy documentation.

12. MANAGING INTERVENTION

Key question: what is the legal framework underpinning intervention in schools and academies?

a) Legislation in force from time to time sets out the intervention powers of LAs.¹⁹

¹⁹ The Education and Inspection Act 2006 and the DfES Guidance on Schools Causing Concern (2007)

- b) Legislation in force from time to time sets out the intervention powers of the Secretary of State²⁰.
- c) In the Archdiocese of Birmingham Catholic education is, or may be, provided in:
- (a) Diocesan Catholic schools, which are voluntary-aided and maintained by a local authority. Therefore, the Governing Body of each school or federation of schools is directly accountable to the maintaining local authority for the quality of education provided in the school(s) and the standards achieved;
- or in:
- (b) Diocesan Catholic academies, which are independent schools funded directly by the DfE, and legally established as part of a multi-academy. Therefore, the Directors of each multi-academy is directly accountable to the Secretary of State for the quality of education provided in the academies and the standards achieved.
- d) In legal terms, Diocesan Catholic schools operate under the Trust of the Archdiocese of Birmingham and the Founder Member of every multi-academy is The Barberi and Newman Academy Trust. Both hold the governance of the same to account for conducting the school or academy as a Catholic school, ensuring its distinctive religious character and securing its future as part of Diocesan educational provision.
- e) The Diocesan Education Service (DES) acts as the agent of the Bishop and Trustees of the Archdiocese of Birmingham regarding schools and the Founder Member/The Barberi and Newman Academy Trust regarding academies. As necessary, in the provision of Catholic education with respect to schools the DES is a strategic partner with the maintaining local authority or with respect to academies with the Secretary of State²¹, thereby meeting the needs of Catholic families for an education in the faith in the first instance.

²⁰ The Education and Inspection Act 2006 and the Academies Act 2010

²¹ The Secretary of State or his or her representative

- f) In parliamentary legislation flowing from the 1944 Education Act, the Trustees of the Archdiocese of Birmingham do not have responsibility for standards in any Diocesan school. The Diocesan Bishop appoints the Foundation Governors and holds them to account for the conduct of the school and the DES acts as the agent of the Archbishop and Trustees. The individual Governing Body has full responsibility for ensuring their school is properly conducted as a Catholic school and promotes high standards of educational achievement. The responsibility for standards sits with the Governing Body.
- g) In the academy company Articles of Association, The Barberi and Newman Academy Trust/Founder Member does not have responsibility for standards in any Diocesan academy. The Diocesan Bishop appoints the Foundation Directors and holds them to account for the conduct of any academy within the multi-academy. The individual Board of Directors has full responsibility for ensuring each academy in their multi-academy is properly conducted as a Catholic school and promotes high standards of educational achievement. The responsibility for standards sits with the Directors.
- h) Neither the Bishop, nor the Trustees of the Archdiocese of Birmingham, nor The Barberi and Newman Academy Trust/Founder Member have any legal responsibility for standards in any schools or academies. However, on their behalf the DES is mandated to 'engage with' the Governing Body/Board of Directors of any Diocesan school or academy giving cause for concern, in ways that are appropriate to ensure the Governors/Directors fulfil their responsibilities for the Catholic life and standards achieved, not least to the children and young people in the school, as well as the Trustees and the community.
- i) Diocesan Catholic schools/academies must make sure that children or young people receive their entitlement to a high quality Catholic education and all children are enabled to make good progress.
- j) In order to fulfil this mandate the DES needs to hold accurate performance data. In the absence of the diocese having any statutory right to receive performance data, at the standing request of the Director of Education the

Governing Body/Board of Directors will complete a return to the DES at the beginning of each autumn term using a DES proforma. The return will record the end of Key Stage results (KS2/KS4) based on the DfE floor standards (and any other data required by or criterion applied by the DfE) in force from time to time for primary and secondary schools or academies.

- k) In cases where any school/academy gives cause for concern, the DES will respond to requests from the LA (regarding VA schools) and the Secretary of State (regarding academies) to support the Governing Body/Board of Directors to enable it fulfil its responsibilities, drive improvement and ensure children and young people achieve well and make good progress.
- l) The nature of any DES support will be in accordance with the legal role and responsibilities, aims, objectives, human and material resources and accountability of the DES.

13. INDICATORS THAT GIVE CAUSE FOR CONCERN

Key question: Which indicators must Governors/Directors, leaders and staff know and understand that give cause for concern?

- a) For several years, the Diocese has published a list of triggers that Governing Bodies are invited to consider as triggers for action in order to secure the future of Catholic school provision. The revised list of triggers for action is attached to this policy: see Appendix D1.
- b) With respect to standards and performance, prime indicators that should give a Governing Body/Board of Directors cause for concern, which will give the DES cause for concern and most likely trigger 'attention' from the relevant local authority and/or the DfE are:

(a) For primary schools/academies:

- 1. results below the DfE floor standard in force from time to time for the percentage of pupils achieving Level 4 in both English and mathematics at the end of Key Stage 2;
- 2. results below the median for the percentage of pupils making the

expected levels of progress between Key Stage 1 and Key Stage 2 in English and mathematics;

3. any other criterion the DfE may apply from time to time to define a school as giving cause for concern, or underperforming, or vulnerable.

(b) For secondary schools/academies:

1. results below the DfE floor standard in force from time to time for the percentage of pupils achieving the basic standard of five A* to C grade GCSEs including English and mathematics;
2. results below the median for the percentage of pupils making the expected progress between Key Stage 2 and Key Stage 4;
3. any other criterion the DfE may apply from time to time to define a school as giving cause for concern, or underperforming, or vulnerable.

(c) In primary and secondary schools/academies, a judgement in a report following an Ofsted inspection that a school or academy:

1. requires improvement (is satisfactory for the second time);
2. requires a notice to improve;
3. requires special measures.

c) With respect to Catholic life, the prime indicators, which should give a Governing Body/Board of Directors cause for concern and trigger 'attention' from the DES are:

(a) that a Diocesan inspection of any school or academy has raised concerns about the Catholic life in the school or academy or whether it meets canonical requirements as a Catholic school.

(b) The Director of Education for the DES will follow up any matters giving cause for concern regarding the Catholic life, in an appropriate manner by:

1. meeting with the Governing Body/Board of Directors and headteacher/principal to offer challenge, advice, guidance and support to address the cause for concern swiftly, effectively and efficiently;
2. agreeing with the Governors/Directors a plan of action and monitoring its effectiveness over the timescale for the plan;
3. taking further action as necessary.

14. THE PROCESS FOR ADDRESSING DES 'CAUSE FOR CONCERN' WITH STANDARDS AND PERFORMANCE ISSUES

Key question: What is the process for dealing with and eradicating underperformance at the earliest opportunity and to prevent risk to the school/academy and local community it serves?

a) **DES STAGE ONE** will apply from:

1. the beginning of the first academic year following the publication of Key Stage results (KS2/KS4) below the DfE floor standard in force from time to time, i.e. in September following the publication of results;

or

2. the point in a calendar year where a judgement in a report following an Ofsted inspection states that a school or an academy is requires improvement / is satisfactory for the second time, requires a notice to improve or requires special measures²².

(b) If a school or an academy gives cause for concern with respect to any of the prime indicators listed in Section 13b) (a) to (c) the Governing Body/Board of Directors of the school/academy will write formally to inform the Director of Education of the DES at the earliest opportunity and invite challenge, advice, guidance and support to help them address the cause for concern swiftly, effectively and efficiently.

²² See Supplemental Agreement for information regarding Special Measures Termination if an academy requiring Special Measures fails to improve

- (c) In the case of a VA school maintained by a local authority, the LA will be contacted formally by the Director of Education of the DES. The purpose will be to ensure that the Governing Body shares with the LA and the DES a common understanding of Governors' responsibility for standards, what needs to be done and the plan for improvement. The LA has a statutory responsibility to hold the Governing Body to account for the quality of education provided in the school and a duty intervene to offer advice, guidance and support to schools giving cause for concern.
- (d) In the case of an academy funded by the Secretary of State, the DfE²³ will be contacted formally by the Director of Education of the DES. The purpose will be to initiate an early conversation about the DfE's view of the Academy's effectiveness and to ensure the Board of Directors shares with the DfE and the DES a common understanding of Directors' responsibility for standards, what needs to be done and the plan for improvement.
- (e) The Director of Education, preferably accompanied by the LA and/or representatives from the DfE, will meet the Governing Body/Board of Directors to consider, in light of legislation and/or government policy in force from time to time, the action that needs to be taken regarding intervention in any school or academy below the floor standard or judged to be causing concern. A key outcome of the meeting will be to establish the Governors/Directors' responsibility for standards and their accountability for producing and implementing a robust plan to address the under-performance of the school/academy and secure rapid improvement in results and a transformation in culture.
- (f) The Governors/Directors of the school/academy in question will retain full responsibility for the action that needs to be taken to address the underperformance and promote rapid improvement in standards.
- (g) An under-performing school or academy is likely to require external 'intervention'²⁴, challenge and support from other schools/academies,

²³ DfE or appropriate department, agency or body

²⁴ For clarification of the term 'intervention' see Section 10 a) and b)

which have the internal capacity to support improvement beyond their own establishment. There may well be the need for other specialised support of an holistic nature, potentially from reputable sources of school improvement services, particularly if there are issues of underperformance to be resolved.

(h) If the VA school in question is already in collaboration or federation with a communion of Catholic schools, the governance arrangement will facilitate the possibility of either prime or additional external intervention, challenge and support from within the communion.

(i) Since the academy in question will already be in a multi-academy in communion with other Catholic academies, the governance arrangement will facilitate the possibility of either prime or additional external intervention, challenge and support from within the communion.

(j) It can be argued that in addressing the needs of a Catholic school or academy the preferred approach would be working on a local solution, achieving transformation through the communion of Catholic schools/academies stimulating 'co-construction'²⁵ between the partners to set priorities, co-design action plans and treat their implementation as a co-production to quickly eradicate the cause for concern.

1. Through the processes of 'co-construction'²⁶, social capital (trust and reciprocity) within and between schools/academies is built and nurtured by the extent and depth of mentoring and coaching that is easier to achieve in an existing communion. The enriched social capital generated by the relationships enables the members' intellectual capital (knowledge, skill and expertise) to be exploited fully in pursuit of the same mission.

(k) Ideally then, at a local level Catholic schools or academies already in a formal governance arrangement, in communion, would be able to act

²⁵ See Creating a self-improving school system David H Hargreaves, National College, 2010

²⁶ Ibid Co-construction is defined as "the action taken to ensure 'what works' in specific contexts with particular people"

as an autonomous, self-improving, learning community. The aim of external intervention will be to assist the individual school or academy in addressing its areas for improvement, and enable the school or academy, as quickly as possible, to become effective, with no further need for external intervention and with sufficient internal capacity to improve.

(l) However, in the case of any Catholic school or academy 'requiring improvement' as interpreted by the DfE, the prime consideration in looking beyond the individual establishment must be the quality of external intervention, challenge and support available to achieve rapid transformation; in simple terms, there has to be change for the better, quickly, effectively and sustainably.

(m) In order to secure the very best quality intervention, the Governing Body/Board of Directors may need to look beyond the immediate communion of Diocesan schools or academies if there is insufficient capacity within the Catholic family. External intervention beyond the immediate communion could be commissioned from: another neighbouring communion of Catholic schools or academies; other outstanding schools or academies locally; or other reputable sources of expertise, including teaching schools, quality LA and independent school improvement services and so-on.

1. It is worth noting that the local Catholic communion may be able to work in partnership on reciprocal 'school-to-school' strategies for improvement; however, the particular knowledge, understanding, skills and partnership competences required to lead transformation through intervention in a underperforming school/academy requiring substantial and significant improvement are of a much higher-order.

2. If the communion cannot provide the necessary intervention for one of the members, this may reveal issues of long-term sustainability for all and needs to be considered.

(n) Essentially, the Governing Body/Board of Directors will be expected to:

1. achieve improvement in the performance of pupils in the end of Key Stage results (KS2/KS4) based on the DfE floor standards in force from time to time after one full academic year. Normally, the school/academy in question will be expected to raise attainment above the DfE's current floor standard.
 2. achieve measurable improvement judged as 'good progress' against the key issues defined by Ofsted in a school requiring improvement, with a notice to improve or in special measures, within one calendar year.
- (o) During the academic year with respect to a school or academy as defined in DES STAGE ONE 14a)1 or the calendar year with respect to a school or academy defined in DES STAGE ONE 14a)2, the Director of Education will schedule to meet regularly, as required, with the Governing Body/Board of Directors to receive evaluative reports and evidence of good progress in line with the success criteria of the school/academy improvement plan. At any time the Director of Education may elect to seek further advice from the LA/DfE.
- (p) At the end of the academic year with respect to a school or academy as defined in DES STAGE ONE 14a)1 or the end of the calendar year with respect to a school or academy defined in DES STAGE ONE 14a)2, the Director of Education will meet with the Governing Body/Board of Directors and preferably the LA/DfE to agree the way forwards.
- (q) If the school/academy is above the DfE's current floor standard or judged to be making 'good progress' against the key issues as defined by Ofsted (see 14a)(n)1/2) the options are:
1. remove it from the category DES cause for concern or
 2. it remains at DES STAGE ONE.
- (r) If the school/academy has failed to achieve the DfE's current floor standard or if there is a lack of measurable improvement judged as 'good progress' it would be moved to DES STAGE TWO.
- (s) The Director of Education will make the decision and it will be shared

with the Governing Body/Board of Directors and the LA/DfE.

(t) If the Director of Education decides to keep the school/academy at DES STAGE ONE then the process of DES STAGE ONE in 14a) will be repeated for one more academic/calendar year.

b) **DES STAGE TWO** would apply (in virtually all cases²⁷) from:

1. the beginning of the second academic year if when published the Key Stage results (KS2/KS4) remain below the DfE floor standard in force from time to time for a second consecutive year;

or

2. the beginning of the second calendar year if there was a lack of measurable improvement judged as 'good progress' following an initial Ofsted inspection that stated a school or academy required improvement or a notice to improve.

(a) Note: If the Chief Inspector²⁸ carries out a subsequent inspection of a school requiring special measures and states the school has made inadequate progress since the date of the Special Measures Notice, it is to be expected that the school would be required to convert to academy status. In such a case DES STAGE TWO would not apply and this intervention process would be suspended.

(b) Note: If the Chief Inspector carries out a subsequent inspection of an academy requiring special measures and states the academy has made inadequate progress since the date of the Special Measures Notice, the process defined in 5.16 of the Supplemental Agreement would apply. DES STAGE TWO would not apply; this intervention process would be suspended pending the possibility of a Special Needs Termination.

²⁷ Clearly, with respect to any individual school or academy giving cause for concern there needs to be the option of flexibility regarding a shorter time-scale only, depending on context and circumstances. The time-scale is not likely to be extended beyond a year.

²⁸ Chief Inspector means Her Majesty's Chief Inspector of Education, Children's Services and Skills or his/her successor

- (b) Going into the second academic year with respect to a school or academy as defined in DES STAGE TWO 14b)1 or the second calendar year with respect to a school or academy defined in DES STAGE TWO 14b)2, the Director of Education will need to agree the way forwards with Governing Body/Board of Directors and the LA/DfE.
- (c) In the case of an academy funded by the Secretary of State, the Secretary of State would have the right to appoint Additional Directors.²⁹
- (d) The Director of Education, preferably accompanied by the LA and/or representatives from the DfE, will meet the Governing Body/Board of Directors to consider, in light of legislation and/or government policy in force from time to time, the action that needs to be taken regarding intervention in any school or academy persistently below the floor standard or judged to be causing concern. A key outcome of the meeting will be to establish the Governors/Directors' responsibility for standards and their accountability for producing and implementing a robust plan to address the continuing under-performance of the school/academy and secure rapid improvement in results and a transformation in culture.
- (e) Essentially, the Governing Body/Board of Directors will be expected to:
1. achieve measurable improvement in the performance of pupils in the end of Key Stage results (KS2/KS4) based on the DfE floor standards in force from time to time at the end of one more academic year,
 2. achieve measurable improvement judged as 'good progress' against the key issues defined by Ofsted in a school requiring improvement or with a notice to improve within one more calendar year.
- (f) The Governors/Directors will need to be sure that standards are rising so there must be rigorous monitoring for improvement at regular intervals, looking for secure evidence of pupil progress at the earliest

²⁹ See Article 59 of the Articles of Association for a Multi-Academy

possible opportunity.

- (g) In the case of a VA school, at the meeting the Director of Education will give notice to the Governing Body that if there is insufficient improvement in standards potentially into a third year, the LA and the Secretary of State have the right to consider the options available in legislation in force from time to time³⁰.
- (h) In the case of an academy, at the meeting the Director of Education will give notice to the Board of Directors that if there is insufficient improvement in standards potentially into a third year, the Secretary of State has the right to consider the options available to him in the Articles of Association, the Master Funding Agreement and the Supplemental Agreement.
- (i) During the academic year with respect to a school or academy as defined in DES STAGE TWO 14b)1 or the calendar year with respect to a school or academy defined in DES STAGE TWO 14b)2, the Director of Education will schedule to meet regularly, as required, with the Governing Body/Board of Directors to receive evaluative reports and evidence of rapid progress in line with the success criteria of the school/academy improvement plan. At any time the Director of Education may elect to seek further advice from the LA/DfE.
- (j) At the end of the second academic year with respect to a school or academy as defined in DES STAGE TWO 14b)1 or the end of the second calendar year with respect to a school or academy defined in 14b)2, the Director of Education will meet with the Governing Body/Board of Directors and preferably the LA/DfE to agree the way forwards.
- (k) If the school/academy is above the DfE's current floor standard or judged to be making 'good progress' against the key issues as defined by Ofsted (see 14b)(e)1/2) the options are:

1. remove it from DES cause for concern or
2. return it to DES STAGE ONE or

³⁰ The Education and Inspections Act 2006 as amended by the Education Act 2011

3. it remains at DES STAGE TWO.

(l) If the school/academy has failed to achieve the DfE's current floor standard or if there is a lack of measurable improvement judged as 'good progress' it would be moved to DES STAGE THREE.

(m) The Director of Education will make the decision and it will be shared with the Governing Body/Board of Directors and the LA/DfE.

(n) If the Director of Education decides to keep the school/academy at DES STAGE ONE or DES STAGE TWO then the processes in either 14a) or 14b) will be repeated for one more academic/calendar year.

c) **DES STAGE THREE** would apply from:

1. the beginning of the third academic year if when published the Key Stage results (KS2/KS4) remain below the DfE floor standard in force from time to time for a third consecutive year;

or

2. the beginning of the third calendar year if there was a lack of measurable improvement judged as 'good progress' following an Ofsted inspection that stated a school or academy required improvement or a notice to improve.

(b) If, after consultation with the DES representing the Trustees, the LA or the Secretary of State decides to propose the closure of a VA school this action will be carried out in accordance with legislation in force from time to time.³¹

(c) In the case of an academy, if the Secretary of State is of the opinion that the academy no longer has the characteristics set out in clause 12 of the Master Funding Agreement or that the conditions and requirements set out in clauses 13-34B of the Master Funding Agreement are not being met, or the Company is otherwise in material breach of the provisions of the Supplemental Agreement or the provisions in the Master Funding Agreement with respect to the

³¹ Ibid

academy, or on receipt of an application from the Founder Member, the Secretary of State may give notice of his provisional intention to terminate the Supplemental Agreement and copy the notice to the Founder Member.

- (d) The reason for proposing closure of a VA school or terminating the agreement for an academy would be that despite a reasonable period of external intervention, challenge and support the school/academy has failed to improve and provide pupils with an acceptable level of education; the consequence being that into a third year pupils will not have made the progress typically expected of their age group.
 - (e) Depending on the analysis of need for school places (primarily for baptised Catholic children in the parish or parishes served by the school or academy, as well as for local children and young people of other faiths or no faith) the DES would need to consider the strategic options available using the appropriate legislation in force from time to time. The DES may have the option to open a new VA school or an academy.
- d) **DES STAGE FOUR** would apply if there was a proposal to open a new VA school or approve an academy.
- (a) Note: The proposal to open a new VA school or approve an academy and progress the process is detailed in legislation and documentation other than this policy statement.
 - (b) The principle in proposing the opening a new school or approving the opening of a new academy would be (within the legal framework of employment law) to ensure high quality staff are appointed, preferably with a proven track record of successful performance and raising standards.
 - (c) The Governors/Directors would have the responsibility to draw up the new staffing structure and the job descriptions and person specifications.
 - (d) The Governors/Directors would need to ensure legal advice about TUPE was taken and considered.

- (e) The recruitment, selection and appointment of the Headteacher/Principal must pay close attention to the faith commitment, knowledge, skills, expertise and personal qualities need to raise standards to a particular level within a given time-scale.
- (f) The recruitment process to appoint the Headteacher/Principal must communicate in all associated documentation (i.e. further particulars, job description, person specification and model contract) the expectation that standards in the school/academy would need to be improved above the DfE floor in force from time to time by the end of the first full academic year.
- (g) The selection process must be rigorous in testing the resolve, determination, understanding, skills and qualities of the Headteacher/Principal to create the ethos that rapidly secures transformation, raises standards for all pupils and builds capacity to sustain continuous improvement.
- (h) This requirement should be expressed formally as a written modification to the contract of employment and linked to performance management arrangements.
- (i) The written modification would clarify that if the expected improvement in standards was not achieved then the governors/Directors would have the responsibility to act (see DES STAGE ONE) to address the shortfall in the Headteacher/Principal's performance and its impact on standards.
- (j) Action may include the use of approved personnel policies to provide advice, guidance, and support and challenge if underperformance was proved to be a barrier to improvement.
- (k) The same approach would be used to appoint teaching staff. The modification to their contracts would clarify that every teacher would be expected to provide good quality teaching so every child in the school has the opportunity to make good progress in lessons and overtime towards end of year and end of Key Stage targets.

- (l) If this was not achieved then governors/Directors would have the responsibility to act to address the shortfall in any teacher's performance and its impact on standards.
- (m) This clarity of expectation would enable all parties to be open and transparent about the transformation agenda for the new school/academy.
- (n) There would be an unequivocal focus on making a positive difference to children's lives and the professional accountabilities of the Governors/Directors, the Headteacher/Principal and the teaching staff.
- (o) The 'bottom line' is that underperformance as judged by national benchmarks or inspection frameworks cannot continue unchallenged year on year in any Diocesan Catholic school or academy.

15. SOURCES OF INTERVENTION CHALLENGE AND SUPPORT FOR CATHOLIC SCHOOLS OR ACADEMIES CAUSING CONCERN

Key question: Where do Governors/Directors and leaders access quality intervention that supports improvement?

- a) The school or academy will be able to access intervention support from a variety of sources. The focus must be on securing the very best quality support that will rapidly and effectively make a difference to the school/academy's performance.
- b) The DES will not be a direct source of school improvement services or intervention, challenge and support.
- c) The variety of sources may include:
 - (a) External intervention from another at least good and preferably outstanding Catholic school or academy with a proven track record of high pupil achievement within the particular communion of schools or the multi-academy.
 - (b) (Without the presumption of an hierarchical order of preference) external intervention from a variety of sources, for example from:

1. Other highly effective neighbouring communions of Diocesan Catholic schools and academies. (It will be the responsibility of those Governors/Directors to ensure that any selling of services is in accordance with legal and financial regulations, including for liability and insurance.)
2. Other highly effective at least good and preferably outstanding neighbouring schools or academies with a proven track record of high pupil achievement.
3. National Leaders of Education (NLEs) who may or may not be in National Support Schools that are primarily Catholic schools or academies, with a proven track record of successful intervention challenge and support.
4. Local Leaders of Education (LLEs) who may or may not be Headteachers of Catholic schools or Principals of Catholic academies, with a proven track record of successful intervention support.
5. Specialist Leaders of Education (SLEs) who may or may not teach in Catholic schools or academies.
6. National Leading Governors (NLGs), identified as local sources of expertise within the Diocese' schools or academies, as well as those in non-Catholic schools.
7. Teaching School Alliances that may or may not have a lead Catholic school or academy.
8. Quality commissioned or traded services of any local authority or joint local authorities working in partnership.
9. Commissioned intervention support from other local academy trusts or local collaborations or federations of schools with proven track-record of success in raising standards and effective intervention.
10. Commercial/independent organisations with a proven-track record of success in specific areas of work and quality assurance, as well as

secure guarantees to cover continuity of service, staff absence and insurance matters (and with an ethical foundation).

d) **National Leaders of Education** (NLEs)

(a) "NLEs are outstanding serving headteachers or principals who, together with the staff in their schools (designated national support schools (NSS)), use their skills and expertise to support schools in challenging circumstances. In addition to leading their own schools, NLEs work to increase the leadership capacity of other schools to help raise standards." [National College website] National Leaders will also be expected to sponsor academies.

(b) Once designated NLEs, together with the resource of their National Support Schools, will be required by the National College and DfE to fulfil their prime responsibility to support any schools/academies causing concern. Whether those schools/academies causing concern are Catholic or not will be of secondary importance with respect to the aims and purposes of the NLE initiative, the NC funding and the designated NLE's obligations.

(c) In general terms, the expansion of the national resource of Catholic NLEs and NSSs is to be encouraged to ensure intervention may be readily available to all schools/academies and Catholic schools/academies when necessary.

(d) The DES will continue to ensure the Diocese has access to the National College record of NLEs in Catholic schools/academies.

(e) Both the DES and NLEs who happen to be Catholic Headteachers or Principals in the Diocese need to be very clear as to the different nature of the relationship between the Diocese and them in role as Catholic Headteachers/Principals and the DES and them in role as NLEs.

(f) In their role as a Catholic Headteacher/Principal, they have a responsibility to ensure that the fundamental partnership that exists and which must be sustained and developed is between the Archbishop of Birmingham and each Diocesan school or academy.

- (g) In their role as an NLE, they have a responsibility to fulfil their designated role as the National College requires. With respect to any commissioned work with any school/academy defined as giving cause for concern, underperforming, vulnerable or at risk then the NLE's accountability is to the commissioning body. In the case of a Diocesan Catholic VA school, presently the commissioning body is likely to be the LA. In the future it may be a Teaching School or the DfE. It will not be the DES since the DES does not have statutory responsibility for monitoring standards and intervention. In the case of a Catholic academy, the commissioning body will be in accordance with the DfE's policy/arrangements for challenging and supporting academies giving cause for concern; it will not be the DES.
- (h) It is very important that the DES, NLEs, their Governing Body or Board of Directors, and the Governors/Directors of the Catholic school/academy requiring intervention, clearly understand the lines of accountability and reporting. For example, it is likely that in role as an NLE a Catholic Headteacher/Principal will have to engage in a relationship of challenge with another Catholic school/academy, in order to carry out the work he/she is paid to do and accountable for. It is also possible that there could be a conflict of interest in the 'direction of travel' that has to be pursued by the NLE for a school/academy giving cause for concern and the 'destination' preferred strategically by the diocese.
- (i) The DES will encourage Headteachers/Principals to be NLEs and will also encourage everyone concerned to share a clear understanding of the respective roles of the NLE and the DES.
- (j) These new relationships will need to be underpinned by proper protocols, which should be determined by the commissioning body and the NLE and their Governing Body/Board of Directors prior to any intervention programme being agreed.
- (k) For the first time, Catholic Headteachers/Principals may deliberately operate as school improvement professionals formally commissioned to address underperformance and cause for concern in failing Catholic

schools/academies and thus be required to make judgements about other Catholic schools/academies within the same Diocesan family, as well as effect improvement.

(l) NLEs, their Governing Body/Board of Directors, the commissioning body and schools/academies in receipt of NLE/NSS intervention should discuss and share an understanding regarding the following:

1. clarity with respect to roles, responsibilities, accountability and line-management, including all aspects of deployment i.e. number of days;
2. the context of past, present and predicted performance data in the school/academy needing intervention and the implications;
3. the aims and objectives of the intervention, e.g. with respect to the quality of leadership, teaching and governance;
4. the intended outcomes and the measurable criteria of success within a given-time scale of the start of intervention;
5. the nature of record-keeping, evidence, evaluation, reporting and the audience for any reports;
6. the expectations regarding the formal judgements that will need to be made and reported, as well as the recommendations to secure rapid improvement in the quality of provision and raise standards.

(m) The NLE and his/her Governing Body/Board of Directors need to enter into a formal agreement, i.e. a contract for the provision of school improvement services, with the commissioner of those services. Due diligence should apply.

(n) Since the Diocese does not have responsibility for monitoring the effectiveness of Catholic schools/academies, the DES will expect to see reports with evidence, judgements and recommendations from any commissioning body using any NLE intervention if the DES is required to make any strategic decisions about schools/academies by any statutory body.

(o) The National College states one type of deployment of an NLE and the NSS is, "... *sponsoring an underperforming school to convert to academy status*". **The DES must be informed to offer advice before any discussion or action takes place with respect to this kind of deployment.**

e) Local Leaders of Education (LLEs)

(a) *"A local leader of education (LLE), ... will be expected to provide coaching and mentoring support to school and academy leaders who need to build leadership capacity and raise attainment."*

(b) The same issues and protocols in 15 d) (a) to (n) apply to Local Leaders of Education commissioned to work with schools/academies needing intervention.

f) Catholic life / Religious Education

(a) With respect to improving the quality of religious education and developing the Catholic life of the school/academy, advice, guidance and support must be sought from the DES.

16. SPONSORSHIP

Key question: How does sponsorship work within the Diocese?

- a) The definition of sponsor published on the DfE website cannot be fulfilled by either the Archbishop of Birmingham/The Trustees of the Archdiocese of Birmingham, the Founder Member/The Barberi and Newman Academy Trust in person, institutionally, or by their agent the DES.
- b) The DES does not have the legal duty of LAs for standards, neither does it have the capacity to mimic the role of a LA, or fulfil the responsibilities and duties associated with maintaining, monitoring and evaluating schools or commissioning intervention.
- c) Where 'sponsorship', as understood by the DfE, is judged to be necessary, the DES as agent of the Archbishop of Birmingham/The Barberi and Newman Academy Trust will take the lead in discussions with the DfE or

any other Government body or agency and work with the school in question to explore the structural possibilities for rapid and effective improvement.

- d) **Where any school is told it needs to become a sponsored academy or any school or academy is asked to take on sponsorship the DES must be informed so that advice and direction may be given as soon as possible.**

17.CELEBRATION

Key question: This policy focuses on identifying and supporting schools and academies that need advice, guidance, support and intervention, what does the Diocese do to recognise and celebrate the successes of schools and academies?

- a) This policy intentionally focuses on identifying and supporting schools and academies giving cause for concern, mainly because (despite not having any responsibility for standards and performance) the DES must direct its very limited resources to those schools or academies that are at risk; at its most extreme that risk can mean risk of closure. The DES must work on behalf of the Archbishop to ensure that Catholic education is provided across the Diocese and its future is secured in order to meet the needs of Catholic children and families.
- b) However, the Director of Education will write to the Governors/Directors of every school/academy that secures an Ofsted judgement of outstanding to celebrate that achievement. The purpose will also be to encourage that successful school/academy to share its knowledge, skills and expertise with other schools/academies in the Diocesan family of schools/academies.
- c) Additionally, Governors/Directors will be reminded that where other local non-Catholic schools/academies ask for help and support then the Catholic community needs to be generous in its response and in reaching out to help all of God's children.

18.FURTHER INFORMATION

Key question: Where can you go for help with respect to any matters

mentioned in this document?

- a) All and any matters may be pursued with the Director of Education of the Diocesan Education Service.
- b) This policy forms part of the Scheme of Delegation with respect to establishing a multi-academy company of Catholic academies.

19. REVIEW

Key question: Will this policy be kept up to date?

- a) This policy may be reviewed and revised at any time in accordance with the wishes of the Trustees of the Archdiocese of Birmingham, based on advice to them from the Director of Education of the Diocesan Education Service.
- b) If this policy is revised then the Scheme of Delegation with respect to establishing a multi-academy company of Catholic academies will be revised accordingly.

Margaret Buck
Associate [Director Level]

Diocesan Education Service
Archdiocese of Birmingham

January 2012

Appendix D1: Produced by Father Marcus Stock, former Director of Schools, DSC

SECURING THE FUTURE – TRIGGERS FOR ACTION TO BE CONSIDERED

Below are a number of factors that are strategically pertinent to the DES, Governing Body and LA/DfE respectively, which may trigger a governing body or group of school governing bodies or a board of Directors of a multi-academy together with the DES and their local clergy and parish community, to explore how Catholic school provision can be strengthened and secured for the future.

DES	GOVERNING BODY or BOARD OF DIRECTORS	LOCAL AUTHORITY (LA) or DfE
• LA Area Review of school places	• LA Area Review of school places	• LA – LA Area Review of school places
• Inability to recruit viable total pupil numbers	• Inability to recruit viable total pupil numbers	• LA - inability to recruit viable total pupil numbers
• Ofsted category	• Ofsted category	• LA / DfE - Ofsted category
• LA category of 'cause for concern'	• LA category of 'cause for concern'	• LA / DfE - category of 'cause for concern'
• Lack of effective leadership at all levels	• Lack of effective leadership at all levels	• LA / DfE - lack of effective leadership at all levels
• Inability to recruit a substantive Headteacher/Principal	• Inability to recruit a substantive Headteacher/Principal	• LA - inability to recruit a substantive Headteacher/Principal
• No substantive Headteacher/Principal in place	• No substantive Headteacher/Principal in place	• LA - no substantive Headteacher/Principal in place
• Inability to recruit local Catholic pupils	• Inability to recruit local Catholic pupils	
• Insufficiency of Catholic school places for Catholic children	• Insufficiency of Catholic school places for Catholic children	
• Inability to recruit sufficient Foundation Governors/Directors	• Inability to recruit sufficient Foundation Governors/Directors	
• Inability to recruit teaching staff	• Inability to recruit teaching staff	• LA - inability to recruit teaching staff
• Inability to recruit Catholic teaching staff	• Inability to recruit Catholic teaching staff	
• Location/suitability/sufficiency/condition/sustainability of buildings	• Location/suitability/sufficiency/condition/sustainability of buildings	
• Amalgamation/rationalisation of parishes	• Amalgamation/rationalisation of parishes	
• Availability of local clergy pastoral support for school/academy	• Availability of local clergy pastoral support for school/academy	
• Lack of support/collaboration between parish clergy/parish community and school/academy	• Lack of support/collaboration between parish clergy/parish community and school/academy	
	• Deficit Budget	• LA/DfE- Deficit Budget
• School/academy performance indicators	• School/academy performance indicators	• LA/DfE - School/academy performance indicators

Appendix E

ARCHDIOCESE OF BIRMINGHAM DIOCESAN EDUCATION SERVICE

DIOCESAN POLICY on SEX and RELATIONSHIPS EDUCATION

To be used in a CATHOLIC MULTI-ACADEMY

in the ARCHDIOCESE of BIRMINGHAM

under the CANONICAL AUTHORITY of the ARCHBISHOP of BIRMINGHAM

1. GENERAL

- a) The Directors and the Principals must establish a policy statement on sex and relationship education for each academy in the multi-academy company.
- b) The Academy must communicate clearly with parents consulting them over provision for sex and relationship education, respecting their role as the prime educator of their children, the first teacher of their children in the ways of the faith.
- c) Policies should reinforce the link between holistic human development and education in sex and relationships. In this context sex and relationship education contributes to both pupils' personal development and the common good. Through learning of God's love for them, pupils will learn how to love faithfully.
- d) The Academy should undertake an audit of pupils' needs to ensure that provision is aligned with pupils' maturity and leads to reflective and challenging learning activities.

2. CHURCH TEACHING

- a) Any policy and programme must convey the unity and coherence of Church teaching on human sexuality and the dignity of human life. Church teaching promotes a "consistent ethic of life".

- b) This approach encourages young people to enter into a deeper relationship with God, themselves and others and is founded on a realisation that:
 - (a) every human life has an intrinsic and absolute value through being created by God and in the image and likeness of God;
 - (b) this value derives from the simple fact of existing and is not dependent on an individual's age, abilities, social acceptability or any other characteristic;
 - (c) self-respect and respect for each other must underlie all human relationships.
- c) Church teaching that we are 'created in the image and likeness of God' and what is meant and understood by 'image' and 'likeness' will underpin and shape the programme followed.

3. THE CURRICULUM

- a) The Directors and Principals shall ensure that sex and relationships education:
 - (a) is to be in accordance with the social and moral teachings of the Catholic church;
 - (b) and in consultation with parents of each academy from time to time;
 - (c) and shall also have regard to any guidance issued by the Secretary of State on sex and relationship education to ensure that children at each academy are protected from inappropriate teaching materials and they learn the nature of marriage and its importance for family life and for bringing up children.
- b) The Directors of primary phase academies must decide whether discrete sex education is included in their academies' curriculum and, if so, what it should consist of and how it should be organised.
- c) The Directors of secondary phase academies will ensure that the academies teach sex education, human growth and reproduction including education about HIV and AIDS and other sexually transmitted infections.

- d) The Directors must keep a written, up-to-date annual record of their decisions and have a statement setting out their policy for primary and/or secondary aged pupils and make it available to parents. This also applies to primary academies where the Directors have opted not to teach sex and relationship education. Parents have the right to withdraw their children from all or any part of the academy's sex education programme
- e) Advice is available from the Diocesan Education Service on learning outcomes for primary and secondary phase pupils.

4. REVIEW

- a) This policy may be reviewed and revised at any time in accordance with the wishes of the Diocesan Bishop.

Diocesan Education Service
Archdiocese of Birmingham

January 2012

Appendix F

ARCHDIOCESE OF BIRMINGHAM

DIOCESAN EDUCATION SERVICE

DIOCESAN POLICY for LEADERSHIP FORMATION AND DEVELOPMENT and SUCCESSION PLANNING

To be used in a CATHOLIC MULTI-ACADEMY

in the ARCHDIOCESE of BIRMINGHAM

under the CANONICAL AUTHORITY of the ARCHBISHOP of BIRMINGHAM

1. GENERAL

- a) The Directors are responsible for each of the academies in the multi-academy company and provides the strategic direction to ensure the communion of academies is effectively led and managed, leadership at all levels is developed and senior leadership development is given priority to secure the future of Catholic education within the multi-academy and beyond.

2. AIMS

- a) This policy aims to support and improve the leadership of the individual academies and the communion of the multi-academy, in securing the Church's mission in education:
 - (a) To make Christ known to all people;
 - (b) To assist parents in the education and religious formation of their children;
 - (c) To be of service to the local Church, and
 - (d) To be of service to society.
- b) The Directors and senior managers will support all staff in:
 - (a) pursuing their vocation and/or career with the moral purpose of making

- a difference to children's and young people's lives, within their own academy and across the communion of the multi-academy;
- (b) developing their leadership characteristics and qualities and management skills and behaviours through an appropriate range of internal and external contexts and opportunities, to benefit the children and young people in their own academy and across the communion of the multi-academy;
- (c) employing different styles of leadership as necessary to contribute to establishing and sustaining the Catholic ethos, where exercising leadership at all levels is encouraged, in order to promote the growth, learning and development of all members of the communion;
- (d) taking on leadership roles as effective Catholic leaders, within the individual academies, across the communion and beyond in other Catholic schools and academies;
- (e) taking on leadership roles as effective leaders within the individual academies, across the communion and then beyond in other local schools and academies for the common good.
- c) The Directors and senior managers will be pro-active as a multi-academy and at academy level in anticipating and preparing for any changes of leadership in a planned and sustainable manner.

3. **PRINCIPLES**

- a) The academies will drive succession planning and leadership formation and development approaches, with an understanding that:
 - (a) No one part of the system will succeed alone – individuals, the academies, other Catholic schools, the Board of Directors, principal(s), the DES, local stakeholders, the CES, Higher Education Institutes and the National College all have a part to play.
 - (b) Individual academies, although critical in terms of providing opportunities and building the Catholic ethos to bind the multi-academy, are too small to be an independent unit of succession

planning. Only collaboration: between the academies in the local communion; beyond the communion with other Catholic schools and academies; and wider still with all local schools and academies; can offer the diversity of opportunities and resources required to grow leaders and build capacity in the wider system to support succession planning.

- (c) It is easier to retain capable, experienced leaders than recruit new ones. Appropriate efforts to hold onto valued experienced leaders should be a priority in any succession strategy. However, there is a balance to be struck about discouraging any movement of staff either internally or externally to the point where an academy fails to benefit from the review, refreshment and revitalisation that comes with a change of staffing. This is especially the case if the capacity to recruit new talented teachers, middle leaders and senior staff is unduly restricted. So retention needs to be considered within the context of a wider unit than just a single academy; it needs to be considered within the local communion of the multi-academy.
- (d) Leadership capability only makes sense in relation to the jobs the Directors expect leaders to do. The Directors and senior managers must understand the leadership requirements of the multi-academy and its individual members, before determining the knowledge, skills, expertise and personal qualities necessary to any posts in the academies.
- (e) The Directors and senior managers are committed to the principle of distributed leadership and recognise that staff should be encouraged to develop a flexible approach to development and growth and not limit their opportunities or aspirations.
- (f) Effective new leaders will be welcomed, whether they come with successful prior experience in a Catholic school/academy, a school/academy with a religious character, a community school or an academy.
- (g) The identification of staff who can fill leadership positions now, or who

have the potential to be future leaders, should be based on agreed evidence and rigorous assessment gathered using a variety of effective assessment tools.

- (h) People learn to be leaders and develop the necessary characteristics through a combination of formal training and on-the-job development, which provides an appropriate range of experiences to develop the person as well as the professional. Structured and varied experience of actual leadership is crucial, especially for those heading for the most senior roles.
- (i) The Directors and senior managers will develop a leadership culture, rooted in the Catholic ethos, where individuals with a strong sense of moral purpose flourish and embrace accountability in order to contribute to the well-being of the pupils and the communion of academies.
- (j) The Directors and senior managers will integrate leadership opportunities and internal and external programmes for development into performance management structures.

4. DEVELOPING LEADERSHIP

a) The Directors and senior managers will:

(a) develop staff, Directors and Academy Representatives who have leadership potential or capacity to contribute to distributed leadership in and between the academies.

(b) develop leadership in all staff as follows:

1. When appointing senior leaders there will be appropriate emphasis on looking for the capacity to give witness to the Catholic faith in fulfilling the role and responsibilities as leader and to lead in demonstrating the values of a Catholic Academy when carrying out their duties.
2. When recruiting new staff the approach will be flexible and consider a range of leadership models not just the existing staffing models in

place in the individual academies or the local communion.

3. Consider the characteristics, qualities, skills and behaviours of potential leaders, including transferable skills from outside teaching.
4. Ensure that due consideration is given to the work-life balance of the Principal(s) and other senior leaders and that processes and practice in each academy and the multi-academy contribute to sustainable expectations of leaders and the role of principal in particular.
5. Seek and act on external advice from the DES to support leadership formation and development in general, and with particular attention to recruiting leaders.
6. Model leadership and encourage development through effective mentoring, coaching, shadowing and secondment.

5. LEADERSHIP CHARACTERISTICS AND QUALITIES, MANAGEMENT SKILLS AND BEHAVIOURS

- a) The Directors and Principal(s) will be expected to develop a framework of leadership characteristics and qualities and management skills and behaviours that will be applied to leadership formation and development activities across the multi-academy.³²
- b) Through the performance management process linked to appropriate leadership formation and development opportunities, senior managers will aim to identify and develop those characteristics, qualities, skills and behaviours that individuals wish or need to develop.

6. WIDER CONTEXT

- a) This policy will be linked specifically with other policies of the multi-academy, for example:

(a) Performance management

³² See Diocesan model framework *Catholic Formation and Development Framework*

1. The multi-academy will be expected to have a policy on performance management.
2. The identification of objectives that will support the further development of leadership characteristics, qualities, skills and behaviours, together with any professional development needed, is most effectively undertaken through a high quality performance management process.
3. The Directors and senior managers will encourage all staff to perceive leadership of a Catholic academy or school as a vocation and encourage practising Catholics to explore the potential career route to senior leadership and support them through the performance management policy.
4. The Directors and senior managers will encourage all staff to consider leadership at all levels in a Catholic academy or school as a vocation and explore their potential career route and support them through the performance management.

(b) Induction policy

1. The multi-academy will be expected to have a policy for the statutory induction of newly qualified teachers and the induction of all staff.
2. Newly qualified teachers may have had leadership experience outside teaching and this will be recognised when planning their induction and particularly when moving from the end of their induction period into the performance management process.
3. All staff will be supported by the policy for staff induction as they are inducted into the Catholic ethos, moral purpose and culture of the academy as a learning community with high aspirations of learning, achievement, growth and development for all, both pupils and staff.

(c) Pay policy

1. The multi-academy will be expected to have a pay policy which recognises the staffing structure and leadership model of the individual academy and the relationship of each to the multi-academy. It should also contain a statement on the use of recruitment and retention allowances.

7. MONITORING

- a) The Directors will appoint a lead 'succession planning' director who will take a specific role in linking with the DES on relevant matters, endeavour to keep abreast of current information and champion the multi-academy's work on leadership.

8. REVIEW

- a) This policy may be reviewed and revised at any time in accordance with the wishes of the Diocesan Bishop.

Margaret Buck
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Diocesan Education Service
Archdiocese of Birmingham

January 2012

Catholic Schools and the Definition of a ‘Practising Catholic’

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Director of Schools**

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Archdiocese of Birmingham**

Catholic Schools and the Definition of a ‘Practising Catholic’

CONTENTS

Introduction	Page 1
What is the purpose of this document?	Page 1
Why does the Church insist that being a ‘practising Catholic’ is a genuine occupational requirement for holding certain key posts in Catholic Schools?	Page 2
Is there a clear understanding of what the term ‘practising Catholic’ refers to when applied to key posts in a Catholic School?	Page 3
What then is the objective definition of a ‘practising Catholic’ for appointment to the office of foundation governor and to key posts in Catholic Schools?	Page 5
Does this mean a ‘practising Catholic’ has to be ‘perfect’?	Page 6
What are examples of substantive life choices which are incompatible with the teaching of the Catholic Church?	Page 8
What if a Catholic who has made a substantive life choice which is incompatible with the values of the Gospel and the teaching of the Catholic Church, applies for the office of foundation governor or a key post in a school?	Page 9
What if a Catholic, appointed as a foundation governor or to a key post in a Catholic school, subsequently makes a substantive life choice which is incompatible with the values of the Gospel and the teaching of the Catholic Church?	Page 10
Conclusion	Page 11
Appendix A: Requirements of the Catholic Church for appointments to the office of foundation governor and key leadership posts in Catholic schools	Page 13
Appendix B: Statutory provision for schools with a religious character to maintain their relevant religious ethos	Page 15

Catholic Schools and the Definition of a ‘Practising Catholic’

Introduction

The heart and expression of Christian life is action flowing from love; love for the One who shows us the Way to Life; love for the One who teaches us the Truth about Life; and love for the One who gives us Life in its fullness – Jesus Christ. “If you love me you will keep my commandments”³³, Jesus said to his disciples. To follow faithfully the teachings of Jesus Christ and his Church is therefore, by those who would be his disciples, an act of love.

As members of the pilgrim People of God on their journey of faith, the disciples of Jesus Christ often find themselves confronted with values and substantive life choices, promoted by the society in which they live, that are objectively incompatible with the teaching of their Lord and his Church. This can be a real test of a disciple’s love in the practice of their faith.

In a society which has largely acquiesced to the “dictatorship of relativism”³⁴, Catholic Christians are called to adhere to Gospel values and to practise moral choices which often are “contrary to the world’s behaviour”³⁵. This call is particularly pertinent to those Catholics who hold positions of governance, leadership and other key posts in Catholic schools, where the values of the Gospel and the teaching of the Church should be at the heart of the integral formation of the children and young people in their care. As such, the selection of candidates for these posts is crucial.

What is the purpose of this document?

The Archdiocese of Birmingham requires that those appointed as foundation governors³⁶ and to certain key posts within Catholic schools are ‘practising Catholics’. This document defines what a ‘practising Catholic’ is for the purpose of these appointments.

This document should also be read in conjunction with ‘Christ at the Centre’³⁷, which provides a summary of why the Church provides Catholic Schools. It forms an important part of the diocesan information and guidance that all involved in the appointment process should familiarise themselves with and follow.

³³ Gospel of John 14:15

³⁴ Cardinal Joseph Ratzinger (Pope Benedict XVI), Homily, Mass before the Papal Election, 18 April 2005

³⁵ Cf. Pope John Paul II, Homily, Camagüey, Cuba, 23 January 1998

³⁶ See Appendix A

³⁷ Fr Marcus Stock, Diocesan Schools Commission, Archdiocese of Birmingham, 2005

Why does the Church insist that being a ‘practising Catholic’ is a genuine occupational requirement for holding certain key posts in Catholic Schools?

In schools with a religious character, it is already recognised, acknowledged and provided for in statutory legislation³⁸ that certain key posts, necessary to the objectives and activities of a school’s particular religious ethos, carry with them a “*genuine occupational requirement*”³⁹.

These key posts require that their holders not only refrain from doing anything “*which is incompatible with the precepts, or with the upholding of the tenets*”⁴⁰ of the school’s religious ethos but, in the case of headteachers, that they are able and fit to “*preserve and develop*”⁴¹ that ethos and, in the case of certain other designated posts, that they hold “*religious opinions*”⁴², “*attend religious worship*”⁴³ and “*give, or are willing to give, religious education*”⁴⁴ in accordance with the precepts and tenets of the relevant religious faith.

The Catholic Bishops of England and Wales have collectively mandated that in Catholic schools certain substantive posts carry a requirement that they are held by ‘practising Catholics’⁴⁵. These are the posts of headteacher, deputy headteacher, and head or coordinator of Religious Education. Additionally, there are other key leadership posts which directly affect the Catholic mission of a school. These too may be required to be filled by ‘practising Catholics’ with the requisite professional skills.

The genuine occupational requirement attached to these posts derives not only from the objectives of the school as a Catholic institution in its fiduciary and legal religious character (the context of the employment post) but also because the performance of the activities concerned with holding these posts are strictly necessary for the school to preserve and develop its Catholic religious ethos⁴⁶ (the nature of the employment post). Consequently, those who hold these posts are required by the context and nature of their occupation to perform specific religious objectives and activities which are essentially

³⁸ See Appendix B, School Standards and Framework Act 1998, Section 60 as amended by Section 37 of the Education and Inspections Act 2006

³⁹ Employment Equality (Religion or Belief) Regulations 2003, Section 7, subsection 3

⁴⁰ See Appendix B, School Standards and Framework Act 1998, Section 60, (5), (b)

⁴¹ Ibid., Section 60, (4)

⁴² Ibid., Section 60, (5), (a), (i)

⁴³ Ibid., Section 60, (5), (a), (ii)

⁴⁴ Ibid., Section 60, (5), (a), (iii)

⁴⁵ See Appendix A, ‘Memorandum on Appointment of Teachers to Catholic Schools’, Department for Catholic Education and Formation of the Catholic Bishops Conference for England and Wales, 11 July 2003

⁴⁶ Cf. Christ at the Centre, Fr Marcus Stock, Diocesan Schools Commission, Archdiocese of Birmingham 2005, pages 10 - 15

catechetical and ministerial. They are thus vocational as well as professional in nature.⁴⁷

For this reason, the religious objectives and activities of these posts require the post-holder to strive to model in their lives the values of the Gospel and to adhere, in the substantive life choices that they make, to the teaching of the Catholic Church. They can only be performed therefore by Catholics who practise these objective religious qualities with equally essential professional skills.

In identifying these key posts though, it should not be supposed that this thereby lessens the importance of other positions within a Catholic school. The virtues of all members of staff, non-Catholic Christians and those from other religious traditions make a valuable and treasured contribution to the quality of a school's Catholic life and ethos.

Is there a clear understanding of what the term 'practising Catholic' refers to when applied to key posts in a Catholic School?

The term 'practising Catholic' is used by a range of people and not only by those who are members of the Church. However, there are often subjective variations in the presuppositions that form the basis of the term's meaning. Even when used by those who are members of the Catholic Church, there can be discovered a wide misconception as to what, objectively, constitutes being a 'practising Catholic'. The term 'practising Catholic' can vary in meaning therefore according to the provenance of its use.

For example, in most Catholic Dioceses of England and Wales, the diocesan bishop has determined that where there is a need to prioritise applications for places in the admissions policies of schools which are oversubscribed by Catholic pupils, a person is considered a 'practising Catholic' if they have been baptised (or have been canonically received into full communion with the Catholic Church) and strive to observe the Church's precept of attending Mass on Sundays and holidays of obligation. This is perhaps the most simple and common understanding of the term.

However, as we have seen, the term 'practising Catholic' is also used by the Catholic Bishops of England and Wales collectively as a requirement for certain key leadership and teaching posts. In these circumstances, the requirement is that a person applying or appointed to one of these key posts will be a

⁴⁷ Cf. Lay Catholics in Schools: Witnesses to Faith, Sacred Congregation for Catholic Education, 1982, §37

‘practising Catholic’ in a way that is much more than the simple and common understanding which is used for a school’s admissions policy.

Unlike a child’s admission to a Catholic school, the key posts referred to carry a genuine occupational requirement that goes beyond simple membership of the Catholic Church alone or even regular attendance at Mass. Their occupation requires them to participate in a very specific religious way in the mission of the local and universal Catholic Church: they have a duty to collaborate with, and be at the service of, the bishop’s mission to govern, teach and sanctify the people of God through the work of education⁴⁸. These religious activities are made provision for in statutory legislation⁴⁹ and made explicit in the contracts of employment.⁵⁰

Integral to the effectiveness and professionalism of the activities and objectives of these key posts is the exercise of a distinct ministry and vocation in the Church. This demands a fidelity to Christ and the teachings of the Catholic Church which is no less than the commitment required of other ministries within the Church. Like any vocation to a specific ecclesial ministry, there are two distinct elements; namely, the personal call that the individual discerns within themselves and the confirmation of that call and suitability by the competent ecclesiastical authority within the Church. Therefore, a person’s desire to be appointed to a key post in a Catholic school will also be balanced by the Church’s assessment of their ability to model an authentic Catholic life of faith.

As collaborators with the bishop in the ministry of education, the holders of these key posts are expected to model lives of personal holiness and professional integrity⁵¹ which are worthy of their high calling and position of religious trust within the Church. The religious nature of these posts is the reason for the occupational requirement which demands that they are performed by Catholics who have committed themselves to the integration of their professional excellence with a clear sense of vocation and ministry. Above all others then, these posts must be substantively held and maintained by ‘practising Catholics’.

⁴⁸ Cf. *The Catholic School*, Sacred Congregation for Catholic Education, 1977, §71

⁴⁹ See Appendix B, *School Standards and Framework Act 1998*, Section 60

⁵⁰ *Catholic Education Service Contracts of Employment (Leadership Contracts)*, Section 4.4

⁵¹ Cf. *Lay Catholics in Schools: Witnesses to Faith*, §32, Congregation for Catholic Education, 1982

What then is the objective definition of a ‘practising Catholic’ for appointments to the office of foundation governor and to key posts in Catholic Schools?

To objectively define what a ‘practising Catholic’ is when assessing applicants for foundation governor or key leadership posts within a Catholic school, it is necessary to understand that there are general obligations as well as essential components that constitute ‘practice’ of the faith in the teaching of the Catholic Church.

The Church’s general obligations for its members require that they strive to live lives of holiness⁵² by being faithful to the teaching of the Gospel⁵³, by trying to uphold the values⁵⁴ proclaimed in the Beatitudes⁵⁵, by assisting in the Church’s mission to make Christ known to all peoples⁵⁶, by upholding privately and publicly the Church’s moral⁵⁷ and social⁵⁸ teaching, by endeavouring to follow an informed conscience⁵⁹ and by making every effort to keep the precepts⁶⁰ of the Church. This is the ‘practice’ of the Catholic faith in its widest and all encompassing sense.

At the heart of these general obligations though, there are essential components for “*full communion*”⁶¹ with the Catholic Church. These are sacramental initiation (Baptism⁶², Confirmation and the Eucharist) and the bonds of profession of faith, the sacraments and ecclesiastical governance. The preservation of this full communion is not limited to purely religious activity but is to be an integral part of the whole pattern of behaviour of a member of the Church⁶³. It is what essentially constitutes being a committed and ‘practising Catholic’.

⁵² Code of Canon Law, Can.210

⁵³ Code of Canon Law, Can.217

⁵⁴ Christ at the Centre, Section A5, Page 8, Diocesan Schools Commission, Archdiocese of Birmingham, 2005

⁵⁵ Catechism of the Catholic Church, n.1725 - 1729

⁵⁶ Catechism of the Catholic Church, n.871 – 873; Code of Canon Law, Can.211

⁵⁷ Code of Canon Law, Can.225 §2 and Can.227

⁵⁸ Code of Canon Law, Can.222 §2

⁵⁹ Catechism of the Catholic Church, n.1783 - 1785

⁶⁰ These are: attendance at Mass on Sundays and Holy Days of Obligation; reception of the Sacrament of Reconciliation at least once a year; reception of Holy Communion at least once a year during the Easter season; observing faithfully the prescribed days of fasting and abstinence; providing for the material needs of the Church, each according to their ability. Cf. Catechism of the Catholic Church, n.2041 - 2043

⁶¹ Code of Canon Law, Can.205

⁶² For someone validly baptised in a non-Catholic Church or ecclesial communion, this would require their subsequent Canonical Reception into the Catholic Church. Baptism, Confirmation and Canonical Reception can all be objectively verified through the production of a relevant certificate issued by the ecclesiastical authority where the sacraments or reception were conferred. Although, there is no canonical requirement for a register of First Holy Communion to be produced, parish priests can usually provide a reference of regular attendance at Mass for someone claiming to be a practising Catholic.

⁶³ Code of Canon Law, Can.209 §1

Therefore, for 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 any way 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.

Does this mean that a 'practising Catholic' has to be 'perfect'?

The process for appointment to the office of foundation governor or for key posts in a Catholic school is not, nor should it ever be used as, an appraisal of an applicant's spiritual and moral successes or failures. Assessment of a person's suitability cannot be a subjective judgement about their 'goodness' or 'holiness'. In terms of the Church's general obligations, almost all Catholics fail to live their faith fully and do not give an authentic witness to their beliefs in all aspects or at all moments of their lives. A 'practising Catholic' therefore, no matter how strong their faith in Christ or firm in their commitment to the Church and its teaching, will almost certainly not be a 'perfect' Catholic.

Rather, assessment of a person's suitability must be objectively based on the requirement for the office or post to be held by a 'practising Catholic' as defined in the section above. The only evidence to be taken into consideration in that assessment is of the substantive life choices that they are known to have made and adhere to, both in the personal and public forum; and whether or not those choices are compatible with the teaching of the Catholic Church.

The Church clearly lays out the 'way of life' for the faithful in the substantive choices that they make in life:

"Incorporated into Christ by Baptism, Christians are 'dead to sin and alive to God in Christ Jesus' and so participate in the life of the Risen Lord. Following Christ and united with him, Christians can strive to be 'imitators of God as beloved children, and walk in love' by conforming their thoughts, words and actions to the 'mind ...which is yours in Christ Jesus, and by following his example.

Healing the wounds of sin, the Holy Spirit renews us interiorly through a spiritual transformation. He enlightens and strengthens us to live as 'children of light' through 'all that is good and right and true.' The way of Christ 'leads to life'; a contrary way 'leads to destruction'.

The Gospel parable of the two ways remains ever present in the catechesis of the Church; it shows the importance of moral decisions for our salvation: There are two ways, the one of life, the other of death; but between the two, there is a great difference."⁶⁴

Consequently, it is clear that a 'practising Catholic' will be someone who, despite weaknesses and personal sinfulness, decides to make only those substantive life choices which follow the "*Way, the Truth and the Life*"⁶⁵. This way of life is not vague or unknown but is manifest fully and most clearly in the person of Jesus Christ and unfolded in the teachings of His Church.

There are substantive life choices which are incompatible with the teaching of the Church and objectively impair⁶⁶ our communion with the Church for as long as we adhere to them; they are objectively grave in nature and are objectively incompatible with God's law.⁶⁷

⁶⁴ Cf. Catechism of the Catholic Church, n.1694 - 1696

⁶⁵ Cf. Gospel of St John 14:6

⁶⁶ Impaired communion within the Church is not to be confused with 'excommunication'. The former results from committing a gravely sinful act or an act that is incompatible with the teaching of the Church but it does not completely separate someone from the life of the Church or from sharing in it in real but limited ways; the latter is the most serious censure or penalty which the Catholic Church imposes on her members and has canonical consequences beyond deprivation of the sacraments and separates them completely from communion with the Church, until the excommunication is lifted.

⁶⁷ Cf. Catechism of the Catholic Church, n.1849 - 1860

What are examples of substantive life choices which are incompatible with the teaching of the Catholic Church?

Clearly, it would be hoped that any individual governor or member of staff in a Catholic school would be sensitive to the very important role that they play in the life and mission of the Church and in the life of faith of the children that their school serves. All those who work in a Catholic school therefore, are required to conduct themselves in a way which does not conflict with the “precept” and “tenets”⁶⁸ of the Catholic Church and are bound by their contractual obligations “*not to do anything in any way detrimental or prejudicial to the interest*” of the Catholic character of the school⁶⁹.

There are actions and behaviours which would be considered not only incompatible with the teaching of the Catholic Church specifically but also incompatible with the professional life and career of any employee within any school⁷⁰. Some examples of these would be:

- serious dishonesty or fraudulent activity;
- being unfit for duty due to alcohol or drug related abuse;
- inappropriate use of school property;
- gross negligence in the performance of professional duties;
- violent or inappropriate behaviour;
- any action which endangers the welfare or safety of pupils;
- any action which would bring the school into disrepute, etc.

There are also substantive life choices which are incompatible with the teaching of the Catholic Church and which may be detrimental or prejudicial to the religious ethos and character of a Catholic school. Some examples of these would be:

- formal apostasy from the Catholic Church⁷¹;
- maintaining membership of, or giving direct support to, any organisation whose fundamental aims and objects are contrary to Gospel values and the teaching of the Catholic Church;

⁶⁸ See Appendix B, School Standards and Framework Act 1998, Section 60, (5), (b)

⁶⁹ Catholic Education Service Contracts of Employment, Section 4.3

⁷⁰ Such conduct may well be in breach of an employee’s Contract of Employment and/or amount to actions which could be the subject of disciplinary action. Such behaviour may also be in breach of the GTC Code of Conduct.

⁷¹ Code of Canon Law, Can.1364

- maintaining the publication or distribution, or by any other means of social communication or technology, of material content which is contrary to Gospel values and the teaching of the Catholic Church;
- a Catholic contracting a marriage in a non-Catholic church, registry office or any other place without dispensation from canonical form⁷²; or contracting a marriage where one or both of the parties have been previously married (and whose former spouse[s] is[are] living) without the former marriage(s) being annulled or declared invalid by the Church;
- maintaining a partnership of intimacy with another person, outside of a form of marriage approved by the Church and which would, at least in the public forum, carry the presumption from their public behaviour of this being a non-chaste relationship; and, where such a presumption in the public forum is not repudiated by the parties within the relationship.

What if a Catholic who has made a substantive life choice which is incompatible with the values of the Gospel and the teaching of the Catholic Church, applies for the office of foundation governor or a key post in a school?

Catholics, whose choices have resulted in them being unable to receive the sacraments but who otherwise may have been a potential applicant for one of these key posts will, on occasion, sincerely present themselves for consideration. In these circumstances, there is sometimes much pressure on clergy and governors to overlook these particular substantive life choices. This may spring from a genuine charitable and pastoral concern not to offend or hurt the individuals involved, or because it is considered that their professional skills and abilities in respect of governance or leadership are needed in the school and override all other considerations.

In these situations clergy and governors should work in partnership with, and follow the advice from, the appropriate officers at the Diocesan Schools Commission and the Diocesan Department of Religious Education. For the good of the school and of the wider Church, the requirement stated here must be upheld in terms of appointing only ‘practising Catholics’, as defined in this document, to the office of foundation governor and to the key posts within Catholic Schools.

⁷² Code of Canon Law, Can.1059

With regard to this, clergy have a clear leadership role and a particular pastoral duty towards those individuals who are unable to be appointed to those positions, by explaining, with the greatest possible care and sensitivity, the Church's requirements and the reasons for these requirements while also encouraging them to maintain their life of prayer and faith within the Church.

What if a Catholic, appointed as a foundation governor or to a key post in a Catholic school, subsequently makes a substantive life choice which is incompatible with the values of the Gospel and the teaching of the Catholic Church?

As already stated, even the most committed Catholic frequently fails in the full expression of the practice of their faith through personal weakness and sinfulness on various occasions and at particular moments.

These failures in the practice of the faith are, however, distinct from adhering to and maintaining substantive life choices which are incompatible with the teaching of the Catholic Church and which prevent them from receiving the sacraments. These choices can give scandal potentially both to the Christian and wider community and bring the religious ethos and character of the school into disrepute.

If for any reason a foundation governor of a Catholic school seriously contravenes the declaration that they signed as a condition of their appointment, they can be removed from office⁷³ by the diocesan bishop or his delegate.

Similarly, all those appointed to key posts within a Catholic school are expected to read and sign the relevant Catholic Education Service Contract. These contracts state that they are:

*"...expected to be conscientious and loyal to the aims and objectives of the School, having regard at all times to the Catholic character of the School, and not to do anything detrimental or prejudicial to the interest of the same."*⁷⁴

⁷³ School Governance (Constitution) (England) Regulations 2003, 23(1)

⁷⁴ Catholic Education Service Contracts of Employment, Section 4.3

Reflecting this contractual obligation, the Catholic Education Service's 'Model Disciplinary Procedure' defines a principal example of misconduct in a Catholic school as:

*"Conduct on the part of a teacher or worker which is incompatible with the precepts, or with the upholding of the tenets, of the Catholic Church."*⁷⁵

Therefore, if someone who has been appointed a foundation governor or appointed to key post in a Catholic school subsequently makes a substantive life choice which is incompatible with the teaching of the Catholic Church, then their ability to govern or to lead and model Catholic life and faith with ecclesial integrity may cease to exist. In such circumstances, an investigation by those responsible for preserving the Catholic ethos of the school will need to be undertaken and, in some circumstances, this may necessitate a foundation governor being removed from office or disciplinary action being taken against someone appointed to a key post, in accordance with the school's formally adopted disciplinary policy.

Any action that diocesan authorities or governing bodies may be required to take within the appropriate procedural and legal parameters should though, be measured, sensitive and exercised with charity and compassion. Working with professional associations and the school's maintaining local authority; every effort should be made to manage, with dignity and respect, the impact of any action that needs to be taken upon the individuals concerned, their families and the Catholic school community.

Conclusion

*"If you love me you will keep my commandments"*⁷⁶

Acting out of love as disciples of Jesus Christ, Catholic Christians are called to model in the substantive life choices they make, the Way, the Truth and the Life of the One who, out of love, laid down his life for them. This love in action is what the 'practice' of the Catholic faith ultimately means. It cannot be reduced to an outward legal conformity to rules or laws but is a response of love to the God who is Love.

⁷⁵ Catholic Education Service, Model Disciplinary Procedure (All Workers at the School) For Schools with Delegated Budgets (2004)

⁷⁶ Gospel of St John 14:15

Similarly, no ministry or vocation in the Catholic Church can be reduced to the mechanical performance of a set of duties or skills, no matter how excellently or professionally they might appear to be carried out. Without them being lived authentically, in private and public life, they would be insincere.

In Catholic schools, foundation governors and the holders of certain key posts which carry with them an occupational requirement to be a 'practising Catholic', are responsible in law and required by the Church to be able and fit to *"preserve and develop the religious character of the school"*⁷⁷ and *"not to do anything in any way detrimental or prejudicial to the interest of the same"*⁷⁸.

Consequently they must, by the very nature and context of their objectives and activities, be substantively held and maintained by 'practising Catholics'. They carry an obligation of office and an occupational requirement which cannot be fulfilled by someone who does not adhere in their substantive life choices to the teachings of the Catholic Church, or by anyone who does not share the Catholic faith.

⁷⁷ See Appendix B, School Standards and Framework Act 1998, Section 60, (4); School Governance (Constitution) (England) Regulations 2003, 8 (1) (b)

⁷⁸ Catholic Education Service Contracts of Employment, Section 4.3

APPENDIX A

Requirements of the Catholic Church for appointments to the office of foundation governor and key leadership posts in Catholic schools

For the appointment of a foundation governor, a candidate for this office in a school operating under the Trust Deed of the Archdiocese of Birmingham is required to sign a declaration that:

"I am a practising Catholic in full communion with the See of Rome, and I am not the subject of any canonical censure or penalty; my appointment places a statutory duty upon me to ensure that the religious character of the school is preserved and developed"⁷⁹ and that the school is conducted in accordance with the provisions of the Archdiocesan Trust Deed⁸⁰; my appointment requires me to comply with the provisions of Canon Law, the teachings of the Catholic Church and such determinations made by the Archbishop and his Trustees and their agent, the Diocesan Schools Commission, in respect of the school or other schools situated in the Archdiocese."⁸¹

With regard to the Church's requirements for appointments to key leadership posts, the 'Memorandum on Appointment of Teachers to Catholic Schools'⁸², states:

"The posts of Headteacher, Deputy Headteacher and Head or Coordinator of Religious Education are to be filled by baptised and practising Catholics. Other Leadership posts that affect directly the Catholic Mission of the school should, wherever possible, be staffed by skilled practitioners who are committed Catholics. All teachers must respect and support the aims and objectives of a Catholic school."⁸³

The purpose of the 'Memorandum' is:

"...to help and guide Governors to fulfil their statutory responsibilities to preserve and develop the Catholic character of the school in relation to the appointment of teachers. Governors of Catholic Voluntary Aided and Independent schools are the employers of the teachers, to whom they

⁷⁹ School Governance (Constitution) (England) Regulations 2003, 8 (1) (a)

⁸⁰ Ibid., 8 (1) (b)

⁸¹ Foundation Governor Application Form, Diocesan Schools Commission, Archdiocese of Birmingham

⁸² Department for Catholic Education and Formation of the Catholic Bishops Conference for England and Wales, 11 July 2003

⁸³ Ibid., Section entitled 'Selecting Leaders For Catholic Schools'

should give clear guidelines about the Catholic character of education and life in their school. As employers the Governing Body must issue the appropriate contract of employment and associated documentation as published by the Catholic Education Service.”⁸⁴

The expectations set out in the ‘Memorandum’ are based on the pertinent Canons in the ‘Code of Canon Law of the Catholic Church’:

“The formation and education in the Catholic religion provided in any school, and through various means of social communication is subject to the authority of the Church. It is for the Episcopal Conference to issue general norms concerning this field of activity and for the Diocesan Bishop to regulate and watch over it. The local Ordinary is to be careful that those who are appointed as teachers of religion in schools, even non-Catholic ones, are outstanding in true doctrine, in the witness of their Christian life, and in their teaching ability.”⁸⁵

In addition the ‘Memorandum’ states that the appropriate contracts of employment and the associated documentation published by the Catholic Education Service must be used by Catholic schools to preserve and uphold their Catholic ethos. The contracts used for specific key posts state:

“You are required to develop and maintain the Catholic character of the School. You are to have regard to the Catholic character of the School and not to do anything in any way detrimental or prejudicial to the interest of the same.”⁸⁶

⁸⁴ Department for Catholic Education and Formation of the Catholic Bishops Conference for England and Wales, 11 July 2003, Section entitled ‘Purpose of the Guidance’

⁸⁵ Code of Canon Law, Can.804

⁸⁶ Catholic Education Service Contracts of Employment, Section 4.3

APPENDIX B

Statutory provision for schools with a religious character to maintain their relevant religious ethos

Statutory legislation in England and Wales makes provision for schools with a religious character to maintain their relevant religious ethos. Section 60 of the School Standards and Framework Act 1998 makes the following provision:

- "(4) In connection with the appointment of a person to be head teacher of the school (whether foundation or voluntary controlled) regard may be had to that person's ability and fitness to preserve and develop the religious character of the school.*
- (5) If the school is a voluntary aided school -*
- (a) preference may be given, in connection with the appointment, remuneration or promotion of teachers at the school, to persons -*
 - (i) whose religious opinions are in accordance with the tenets of the religion or religious denomination specified in relation to the school under section 69(4), or*
 - (ii) who attend religious worship in accordance with those tenets, or*
 - (iii) who give, or are willing to give, religious education at the school in accordance with those tenets; and*
 - (b) regard may be had, in connection with the termination of the employment of any teacher at the school, to any conduct on his part which is incompatible with the precepts, or with the upholding of the tenets, of the religion or religious denomination so specified."*

Section 37(2)(b) of the Education and Inspections Act 2006 extended these provisions in voluntary aided schools with a religious character in England (not Wales) to the appointment of non-teaching staff, to have regard to a person's faith where there is a 'genuine occupational requirement'⁸⁷. An example of such a non-teaching post in a Catholic School is the appointment of a Lay Chaplain.

⁸⁷ Governing bodies, as the employers, must comply with the Employment Equality (Religion or Belief) Regulations 2003 which prevent discrimination on religious grounds, except in a case where being of a particular religion or religious denomination is a genuine occupational requirement. Schools considering whether a particular post has a genuine occupational requirement for a person to be of a particular religion or belief must follow both the regulations and the guidance.

Annexure 1

The Articles

Annexure 2

The Master Funding Agreement

Annexure 3

The Supplemental Agreement

Annexure 4

The Buildings Lease

Annexure 5

The Playing Fields Lease

3. Executed as a Deed by the Founder Member by affixing the Common Seal of the Founder Member in the presence of:

.....
Director

.....
Director

Or

Executed as a Deed by the Founder Member acting by

Either

.....
Director

J. P. [Signature]

In the presence of:

Witness

ANDREW A. CRICHTON

Address

GATLEY LIP, ONECLIFFEN, EDMUND ST, BIRMINGHAM

Occupation

SOLICITOR

B3 2HT

4. Executed as a Deed by the Diocesan Bishop:

+ Bernard Longley

In the presence of:

Witness

Jemini Davis

Address

ARCHBISHOP'S HOUSE, 9 JIHADUELL STREET, BIRMINGHAM

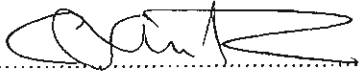
B4 6EY

Occupation

SECRETARY

This Scheme has been executed as a **DEED** and is delivered on the date stated at the beginning of it but takes effect from the Effective Date.

1. Executed as a Deed by the Company by:



Director

In the presence of:

Witness 

Address **Gateley LLP**

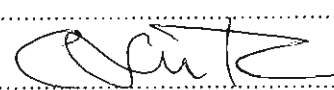
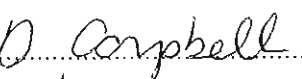
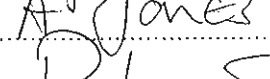
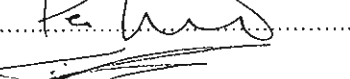
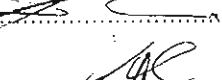
One Eleven, Edmund Street, Birmingham B3 2HJ

dx 13033 Birmingham 1

tel 0121 234 0000 fax 0121 234 0001

Occupation **SOLICITOR**]

2. Executed as a Deed by the Academy Committee acting by the Academy Representatives listed in Schedule 1

1. 
2. 
3. 
4. 
5. 
6. 
7. 
8. 
9. 
10. 