



Governance of a Catholic School A Clarification of Roles and Responsibilities for England & Wales

The Diocesan Bishop and Trustees

A Diocese is a portion of the people of God entrusted to a bishop. It constitutes a particular Church in which and from which the one and only Catholic Church exists.

The diocesan bishop governs the particular Church entrusted to him as Vicar of Christ: he has proper, ordinary and immediate jurisdiction, exercised by him personally in Christ's name.

Canon law provides that each diocesan bishop has strategic responsibility to commission sufficient school places to meet the needs of baptised Catholic children resident in his area. A Catholic school¹ is one which is recognised as such by the diocesan bishop.

Canon 803 provides the definition of a Catholic school. **Canon 803§1** provides that a school is Catholic if:

- (a) It is controlled by a diocese or religious order (or other public juridical person²); or
- (b) It is acknowledged in a written document as Catholic by the diocesan bishop.

The 'control' specified in canon 803 is normally established where the diocese or religious order owns the school and appoints the governing body (or at least a majority of it).

In addition **canon 803§3** provides that no school, even if it is Catholic, may use the title 'Catholic school' without the consent of the bishop.

As works of the apostolate, all Catholic schools are subject to the jurisdiction of the diocesan bishop, even those that are not in diocesan trusteeship. **Canon 806§1** provides that the diocesan bishop has the right of supervision, visitation and inspection of Catholic schools in his diocese, even those established or directed by members of religious orders. He also has the right to issue directives concerning the general regulation of Catholic schools.

Inspection is where the diocesan bishop or his delegate inspects a school according to criteria determined by the bishop. In practice, this is normally carried out under section 48 of the Education Act 2005 (or equivalent) in a way which is complementary in scope to the s.5 inspection, but it can extend to all aspects of the school's curriculum and life at the bishop's discretion.

Visitation is a particular form of inspection which the diocesan bishop is obliged to carry out from time to time. Whereas inspections are usually carried out according to a schedule and specific framework, visitations tend to be carried out on an ad hoc basis. They are carried out by the Ordinary or his delegate, and can be broad ranging or specific in focus. They can be carried out in response to concerns that come to the attention of the Ordinary, or as part of the bishop's general duty of visitation. Schools are most likely to experience visitations as part of a broader visitation of, for example, a parish, deanery or religious institute, but all Catholic schools can be the subject of a visitation by the diocesan bishop.

Supervision, or episcopal oversight, is the duty of the diocesan bishop, personally or through others, to ensure that all Catholic institutions within his diocese are acting in conformity with the teachings and regulations of

¹ In this document 'school' includes sixth-form colleges.

² 'public juridical person' means a body recognised as having corporate personality within the Church, e.g. a diocese and its constituent parishes; or a religious order and its constituent provinces or houses.



the Church and the mission of the Diocese, to regulate all works of the apostolate, and to take all necessary actions to ensure such conformity.

Most Catholic schools, and the land they are built on, are owned by the diocese. They are held in charitable trusts by diocesan trustees, appointed by the bishop. The role of the diocesan trustees is to safeguard the interests of the Catholic community as a whole in the diocese and to serve its needs. Other Catholic schools, mainly owned by religious orders, have their own trustees, but are nevertheless within the authority of the bishop.

Catholic schools are provided by the trustees for the purposes set out in their governing documents, known as the trust deed. Most trust deeds state that the school is provided 'for the maintenance and advancement of the Roman Catholic religion', and the provisions of canon law form part of the trust deed in every Catholic school. Under charity and education law, the school is regulated by its trust deed, and the school's Instrument of Government must reflect those requirements.

The Governing Body

The governing body of a Catholic school occupies and conducts the school on behalf of their trustees and under the supervision of the diocesan bishop as the occupier of the premises, proprietor of the undertaking, and employer of the staff. It occupies the school subject to the parameters laid down by their trustees, and ultimately any decisions relating to the land and buildings rest with the trustees, except in so far as these have been delegated to the governing body by the trustees.

Diocesan Officers

In order to assist him in carrying out his responsibilities, the diocesan bishop has a diocesan curia: offices, departments and officers appointed to assist him and to act in his name in the governance of the diocese. For schools in the Trusteeship of the diocese, they also act on behalf of the diocesan trustees. This usually includes a Diocesan Education Service, or Schools' Commission, and a Diocesan Department of Religious Education or a Director of Religious Education. Each diocese has a Director of Education, or equivalent, who acts in the name of the diocesan bishop and is responsible for exercising the bishop's authority and implementing his education policy at a local level.

Foundation Governors

The governors of a Catholic school work as a team, in close co-operation with the headteacher and all staff. All governors and staff contribute to the Catholic character of the school and the Catholic nature of the education provided, as set out in its mission statement.

Successive Governments have recognised the responsibilities of the trustees and the rights of the Catholic community as a whole to ensure that the long term future of Catholic education is secure. The law enshrines a number of guarantees from the State to ensure the Catholic character and ethos of the schools is maintained; particularly in the areas of admissions, staffing and governance.

The diocese (or religious order) has the legal right to appoint (and remove) an overall majority of governors, who are known as foundation governors. In addition to all the other legal responsibilities of the governing body, the law recognises that foundation governors are appointed specifically to ensure:

- That the Catholic character of the school is preserved;
- That the school is conducted in accordance with its trust deed; and



- That the religious education curriculum is in accordance with the bishop’s policy for his diocese, based on the Bishops’ Conference Curriculum Directory.

Foundation governors are, therefore, appointed by the bishop, or religious order, to represent their interests and those of the Catholic community as a whole. Foundation governors play a leading role in the Catholic community: they collaborate with the bishop in his ministry in education. It is, therefore, important for them to:

- Know and implement the bishop’s policies on education, including religious education;
- Represent those policies to the governing body;
- Understand and promote the distinctive nature of Catholic education;
- Act for the good of Catholic education as a whole within the diocese, considering not only the interests of the individual school or college, but the interests of other schools and colleges;
- Respond to the needs of the Catholic community as a whole, as represented by the bishop;
- Secure the long-term future of Catholic education;
- Always act in accordance with the mind of the bishop.

The Governing Body of a Catholic School

All governors of Catholic maintained schools have legal rights and responsibilities which ensure that they safeguard and promote their school’s denominational character. These rights and responsibilities have been recognised by Government as central to the continuing success of Catholic education. The following are key aspects of the governing body’s legal duties in voluntary aided schools relating to their religious character.

1. *Appointment of Teachers*

Since all Catholic maintained schools are voluntary aided, the governing body of those schools is the employer of staff. In Catholic voluntary academies the board of directors of the academy trust is the employer of staff. For the purposes of this paper, the term ‘school(s)’ includes academies.

For the purposes of protecting the Catholic character of the schools, the bishops have collectively issued the *Bishops’ Memorandum on the Appointment of Teachers in Catholic Schools*. The Memorandum sets down the bishops’ expectation that the employers of staff in Catholic schools will issue clear guidelines about the Catholic character of the education and life in their school and will issue the appropriate contract of employment and associated documentation as published by the Catholic Education Service (“CES”).

The Memorandum sets out as a minimum requirement, that in all Catholic schools the Headteacher, Deputy Headteacher and the Head or Co-ordinator of Religious Education must be a practising Catholic. The Memorandum is due to be updated shortly to reflect the fact that there are different emerging terms for senior school leaders, such as Head of School, Executive Head, Associate Headteacher etc, and the Bishops’ Memorandum will be amended to reflect the fact that those with overall responsibility for the day to day management of the school, and the person who is the second most senior person in the leadership team, regardless of the descriptor applied to their role, will be required to be practising Catholics. The Memorandum also refers to the employment of practising Catholics for other teaching posts within the school as being a “high priority” whilst recognising the contribution of teachers of other traditions.

In Catholic schools in England it is possible to objectively justify that a support staff post can *only* be filled by a practising Catholic. This is, of course, subject to the school being able to satisfy the requirements for ‘objective justification’ and the CES always advises that governing bodies of Catholic schools in England take legal advice before applying such a requirement. This provision does not apply in Wales i.e. there can never be a justification for a requirement that a support staff post be filled *only* by a practising Catholic.



It is important to ensure that the Catholic character of the school is preserved and developed. In the CES model contracts all school staff are required to have regard to the Catholic character of the school at all times. All staff will be expected to be conscientious and loyal to the aims and objectives of the school and not to act in any way that would be detrimental or prejudicial. Senior levels of staff will be required to maintain and develop the Catholic character of their school. Furthermore all staff are bound to carry out their contractual duties in accordance with the requirements of canon law in respect of the governance of the Catholic character of the school, and the Trust Deed and Instrument of Government of the school.

The governing body, as the employer, is required to ensure that the CES model documents are used in their school. Furthermore they are required to ensure that provisions of the contractual documents are fulfilled and to take steps in relation to any breaches of contract, taking advice from their diocese. The CES model workplace policies provide that where disciplinary allegations concern misconduct which could bring the Catholic character of the school into disrepute then the school must notify the diocese.

2. Admissions

As a voluntary aided school, the governing body of every Catholic school is the admission authority. The governing body is therefore responsible for drawing up its own admission policy for the school. This must of course comply with legislation and with the School Admissions Code.

Catholic maintained schools are of course permitted to give priority first and foremost to Catholic children, and this is a legal requirement in some dioceses. The School Admissions Code provides for the admission authority of the school to follow any guidance issued by the Church or religious authority where preference is given on the basis of faith criteria.

All Catholic dioceses will provide guidance to their schools setting out the bishop's requirements in relation to his schools admission arrangements. The bishop will expect his requirements to be followed, and these will include the requirement that priority is given to Catholic children.

3. The Curriculum

The governing body of a Catholic maintained school is responsible for policy relating to the whole curriculum, including religious education. This ensures that the curriculum of the school, including all the subjects of the National Curriculum, is taught in the light of the Gospel values and actively promotes the spiritual and moral development of the pupils. Foundation governors have special responsibility for the religious education curriculum and have a duty to ensure that it is taught in accordance with the Curriculum Directory and the bishop's policy.

Christine Fischer
Assistant Director and Legal Adviser
Catholic Education Service

September 2014