

# MODEL PROTOCOLS FOR MAINTAINED & ACADEMY SCHOOLS

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**Diocese of Westminster**

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Vaughan House,  
Westminster





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## 1. WHY DO WE NEED DIOCESAN PROTOCOLS?

These Protocols in general explain the relationship you must have with your diocese. In particular, it sets out specific protocols with an explanation of diocesan requirements and expectations and the support the diocese can provide to you in the areas covered by these protocols. The basis for this document is to ensure the **preservation and development of the Catholic character** of the School through your relationship with your Diocese in compliance with your governing documents.

There is therefore a commitment to the principles of solidarity and subsidiarity<sup>1</sup>. It is important that we all work together in achieving an effective working relationship to ensure benefit to all within the School, the Diocese and the wider Catholic community. The Church also promotes the principle of community cohesion so you must continue to look outwards and work in partnership with **all** other schools in the wider community, for the benefit of all children in society

## 2. HOW DO YOU USE THESE DIOCESAN PROTOCOLS?

Each Protocol in this document can be used independently of the other Protocols. Your School may need to refer to more than one Protocol when dealing with any one issue. For example you may need to refer to the Protocols on Staffing and Recruitment together with the Protocols on Safeguarding to deal with pre-employment issues for staff. Please refer to the contents page on page 2 for the subject areas. There is a section on page 6 that clarifies the terminology used throughout.

## 3. WHO DO YOU CONTACT AT YOUR DIOCESE?

If at any point you need to contact your Diocese [as a result of these Protocols or associated documents] in the first instance you must always contact the Director of Education [Diocesan Schools Commissioner] or copy the Director of Education into any communication with a diocesan officer who has delegated responsibility for your issue

Please call **0207 7798 9005** or email [linetteblackmore@rcdow.org.uk](mailto:linetteblackmore@rcdow.org.uk)

Linette Blackmore is the Office Manager for the Education Service and the PA to the Director of Education.

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<sup>1</sup> Principles recorded in 'The Common Good in Education' (Bishops' Conference 1996)

## 4. EDUCATIONAL VISION

As an integral part of its educational vision for the holistic formation of children and young people, the Catholic Church expects you to promote and uphold high standards, including academic standards.

A Catholic school's primary purpose is to support families in the education of their children. Schools strive to enable each child to attain personal excellence in their studies and through the formation of their human values and understanding of God's purpose in their life.

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

*St. John Paul II 'Catechesi Tradendae' 69*

Crossing the threshold of a Catholic school should be like entering into the nurturing comfort of a loving Christian family, where all experience welcome, feel valued and are challenged to grow.

Your overarching duty is to preserve and develop the Catholic character of the school or schools for which you are responsible. This is best achieved through a committed working relationship with your Diocese. This document will assist you in carrying out this duty through such a working relationship.

These Protocols are designed to ensure a collaborative and supportive culture so that the School serves as a witness to the Catholic faith. It works in conformity with any trust deed governing the use of land used by you and in conformity with Canon law and with the teachings of the Catholic Church and with any advice or directive issued by the Diocesan Bishop.

This commitment to working together will help realise the aim set out in Canon 795:

*Education must pay regard to the formation of the whole person, so that all may attain their eternal destiny and at the same time promote the common good of society. Children and young people are therefore to be cared for in such a way that their physical, moral and intellectual talents may develop in a harmonious manner, so that they may attain a greater sense of responsibility and the right use of freedom, and be formed to take an active part in social life.*

Children and young people in Catholic schools in the Diocese therefore deserve the very best educational opportunities and life-fulfilling experiences within Catholic communities imbued with Gospel values where Christ is at the centre.

## 5. LIST OF DOCUMENTS/PROVISIONS THAT HELP DEFINE YOUR RELATIONSHIP WITH THE DIOCESAN BISHOP AND THE DIOCESE INCLUDE:

- Canon law<sup>2</sup> including:
  - The Curriculum Directory and Bishops' statements on religious education
  - Any Diocesan directives relating to the School
- Trust Deed
- Instrument of Government (for VA Schools)
- Memorandum and Articles of Association (for Academies)
- The Scheme of Delegation (for a Catholic Multi Academy Trust Company)
- Table of roles and responsibilities in a Catholic Multi Academy Trust Company [CAT]
- This document setting out the Diocesan Protocols between you and your Diocese
- The Bishops' Memorandum on the Appointment of Teachers in Catholic Schools
- CES model Governor's Code of Conduct

## 6. SHOULD YOU NEED ADVICE and SERVICES

At times you may need specialist advice and services (legal or otherwise) in order to govern the School.

In such circumstances it is recommended that you consult with your Diocese to procure such through Churchmarketplace wherever possible to ensure that you receive appropriate, cost effective and specialist advisors that may be able to assist and support you.

For matters pertaining to education and employment, you must ensure that any HR and legal advice comes from an adviser who is an expert in employment law and a specialist in the Catholic education sector.

## 7. TERMINOLOGY

The words listed below are used with the meanings set out, unless the context requires otherwise.

**'School'** means the Catholic school or college for which you (as the governing board) are responsible and accountable. It also includes:

- in the case of an academy, the Catholic Multi Academy Trust Company (CAT) and all the academies within it;

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<sup>2</sup> This means the Canon law of the Catholic Church from time to time in force, which includes the 1983 Code of Canon Law, and any Particular Law such as legislation of the Bishops' Conference, directives of the diocesan bishop and legislation of the school's religious order (if any).

- in the case of a federation, the Federation and all the schools within it.

**‘Director of Education’** (sometimes referred to as the ‘Diocesan Schools Commissioner’) means the officer or officers who exercise the Diocesan Bishop’s education functions on his behalf.

**‘Diocese’** includes any duly authorised representative or officer of the Diocesan Bishop who is exercising functions in relation to the school.

**‘Governing board’** refers to your body with legal responsibility for conducting the school on behalf of its Trustees and include: the governing body of a Catholic voluntary aided school and the board of directors of a Catholic Academy Trust Company. In appropriate circumstances it may also include a local governing body of an academy trust company, where that local governing body is exercising powers delegated to it by the board of directors.

**‘Governor’** means a member of a governing board.

**‘Local governing body’** means any committee (by whatever name) operating at a local level of a Catholic Academy Trust Company. The roles and responsibilities of any local governing bodies and the senior leadership of each academy within a Catholic Multi Academy Trust Company are clearly defined in the Company’s Scheme of Delegation.

**‘Diocesan Trustees’** means the diocese that provides the school and owns the land and buildings, and corresponds to the entity in English law defined in the Education Acts as ‘the Trustees of the school’.

**‘The Diocesan Trust Deed’:** The School is provided by its Trustees for the purposes set out in their governing documents, including its Diocesan Trust Deed. The governing board of the School is under a legal duty to conduct itself in accordance with its Diocesan Trust Deed<sup>3</sup>.

## 8. THE ROLE OF THE DIOCESE of WESTMINSTER

The following explains the role of the Diocesan Bishop, the Diocese and the Diocesan Trustees.

### **The Diocesan Bishop – Bishop +John Wilson**

The Diocesan Bishop holds canonical responsibility for the provision of all Catholic education within his diocese, including maintained schools, academies, free schools and other independent schools, non-maintained schools and sixth form colleges. His oversight is to ensure that the school is being conducted in accordance with the teachings and discipline of the Catholic Church.

The Diocesan Bishop has a canonical right to carry out a visitation or inspect any Catholic school in his Diocese at any time, either personally or, more usually, through his representatives.

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<sup>3</sup> In the case of voluntary aided schools, please see s21(4) Education Act 2002; for voluntary academies please see the Articles of Association.

*Can. 806 §1. The Diocesan Bishop has the right to watch over and inspect the Catholic schools situated in his territory, even those established or directed by members of religious institutes. He has also the right to issue directives concerning the general regulation of Catholic schools; these directives apply also to schools conducted by members of a religious institute, although they retain their autonomy in the internal management of their schools.*

This right covers any kind of school, academy or college which is designated as a provider of Catholic education: voluntary aided schools, academies, religious order schools, independent schools and sixth form colleges. This inspection is properly called a Canonical inspection and can be carried out by an appropriately appointed diocesan inspector at any point.

The Diocesan Bishop's canonical responsibilities are normally carried out by the Diocesan Schools' Commission on his behalf. The rights of Diocesan Bishops are recognised in legislation, including the arrangements for denominational inspections pursuant to s48. A grant towards the cost of these inspections in both maintained schools and academies is provided by the State.

Each Diocesan Bishop has strategic responsibility to commission sufficient places in Catholic schools to meet the needs of baptised Catholic children resident in his area. A Catholic school is one which is recognised as such by the Diocesan Bishop. Essentially the definition of a Catholic school in Canon law requires that it is controlled by the Catholic Church.<sup>4</sup> That control is normally established where the Diocese or a Religious Order owns the school and appoints the governing board, or at least a majority of it. In addition Canon law provides that no school, even if it is Catholic, may use the title 'Catholic' without the consent of the Diocesan Bishop.<sup>5</sup> All Catholic schools are subject to the jurisdiction of the Diocesan Bishop, even those that are not in diocesan trusteeship.

**In Catholic voluntary aided (VA) schools**, the Diocesan Bishop's oversight is exercised through his Diocesan Schools Commission in close partnership with the local authority. This recognises that in VA schools, it is the local authority which holds the statutory responsibility for monitoring effectiveness and intervention, and to inform the Director of Education when a school gives cause for concern.

**In Catholic voluntary academies**, the Diocesan Bishop's oversight is exercised through his Diocesan Schools Commission in close partnership with the relevant Catholic Multi Academy Trust Company (CAT) This recognises that in academies, it is the academy trust company which holds responsibility for monitoring effectiveness and intervention, and to inform the Director of Education when an academy gives cause for concern.

**In Catholic Independent Schools**, the Diocesan Bishop's oversight is exercised through his Diocesan Schools Commission in close partnership with the relevant Religious Order, Trustees or Company to inform the Director of Education when an independent school gives cause for concern.

### **The Diocese and the Diocesan Bishop**

A Diocese is a portion of the people of God entrusted to a Diocesan Bishop. It constitutes a particular Church in which and from which the one and only Catholic Church exists. In English law it exists as an

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<sup>4</sup> Canon 803§1

<sup>5</sup> Canon 803§3

independent charitable foundation. The Diocesan Bishop governs the Diocese as Vicar of Christ: he has proper, ordinary and immediate jurisdiction, exercised by him personally in Christ's name.

**The Diocesan Bishop's responsibilities include:**

- The provision and future development of excellent Catholic education throughout the diocese; including voluntary aided, religious order and independent schools.
- The oversight of high educational standards, progress and outcomes in all Catholic schools especially in RE
- The inspection of religious life of schools and RE (s48 inspections)
- The development of Catholic teachers and leaders (and overseeing all appointments in accordance with diocesan protocol)
- Planning of school place provision
- Engaging with the Regional Schools Commissioner, Local Authorities and Ofsted
- Maintaining links with the Catholic Education Service and the government
- Issuing directives concerning the general regulation of Catholic schools.

**The Diocesan Trustees**

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 Diocesan Bishop. The role of the Diocesan Trustees is to administer the property of the diocese in accordance with its Trust Deed, making it available to the Diocese led by the Bishop.

Catholic Schools occupy the land on behalf of the Diocesan Trustees and under the oversight of the Diocesan Bishop, subject to the directives of the Bishop and the parameters set out by the Diocesan Trustees relating to the occupation of the land.

**The Diocesan Trust Deed**

The School is provided by its Trustees for the purposes set out in their governing documents, including its Diocesan Trust Deed. The governing board of the School is under a legal duty to conduct itself in accordance with its Diocesan Trust Deed<sup>6</sup>.

In education law, "trust deed" is given a wide definition which includes any instrument (other than the instrument of government) regulating the constitution of the governing body or the maintenance, management or conduct of the school<sup>7</sup> and includes the Diocesan Trust Deed of the diocese that provides the school.

Most Trust Deeds state that the School is provided 'for the advancement of the Catholic religion', and the provisions of Canon law form part of the Diocesan Trust Deed. Under charity and education law,

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<sup>6</sup> *In the case of voluntary aided schools, please see s21(4) Education Act 2002; for voluntary academies please see the Articles of Association.*

<sup>7</sup> *Education Act 1996, s579*

the School is regulated by its Trust Deed, and its other governing documents must reflect those requirements.

## 9. DIOCESAN OFFICERS

Diocesan officers are appointed by the Diocesan Bishop to help him to carry out his responsibilities relating to Catholic education. They are often members of the Diocesan Schools Commission.

- **Diocesan Directors of Education** (sometimes referred to as the **Diocesan Schools Commissioners**) are appointed by the Diocesan Bishop to help in the planning, organisation and management of Catholic schools and academies (the Schools) in the Diocese. They negotiate with officers of the local authorities and the Department for Education in matters relating, for example, to the provision of places and school buildings. They also work closely with governing boards, advising on the appointment of senior leadership, building projects and maintenance, and they organise in-service training for directors/governors and teachers.
- **Religious Education Advisers and Inspectors** support the Diocesan Bishop by promoting his policies on the teaching of religious education in the School. They report to the Diocesan Bishop on the quality and standard of teaching and learning. They advise directors/governors on the appointment process for teachers of religious education and work with teachers and directors/governors on the curriculum for religious education
- For schools in the diocesan Trusteeship, the officers of the Bishop will also act on behalf of the Diocesan Trustees in appropriate matters relating to property.

## 10. SEVEN PRINCIPLES OF PUBLIC LIFE

All staff and governors must follow the seven principles of public life (“the Nolan Principles”) namely Selflessness; Integrity; Objectivity; Accountability; Openness; Honesty and Leadership as set out in Appendix II to the CES model Governors/Directors Code of Conduct when conducting matters in relation to the School.

### 1. Selflessness

Holders of public office should act solely in terms of the public interest.

**2. Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

**3. Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

**4. Accountability**

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

**5. Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

**6. Honesty**

Holders of public office should be truthful.

**7. Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## 11. DIOCESAN PROTOCOLS on GOVERNANCE

Put simply, in order to be a Catholic school you must be overseen and directed by the Catholic Church and be recognised as such by the Diocesan Bishop. The Diocesan Bishop, in Canon law, has the strategic responsibility to provide Catholic education across his Diocese and, therefore, is responsible for any strategic decisions about Catholic schools across his Diocese.

Decisions about the future of any Catholic school, particularly any decisions that relate to structural changes, including changes to governance arrangements, require both the consent of the Diocesan Bishop and the Diocesan Trustees.

The Diocesan Bishop has a duty to ensure that all the foundation directors/governors that are appointed to govern Catholic schools in the Diocese have the personal commitment and skills to preserve and develop the Catholic character of the school or schools for which they have responsibility.

As an integral part of its educational vision for the holistic formation of children and young people, the Catholic Church expects you to promote and uphold high standards, including academic standards.

To uphold these high standards and fulfil these responsibilities, it is essential that your governing documents and governance arrangements are as effective as possible.

The Governing Board must endeavour to operate at a strategic level, leaving the School's senior leadership responsible and accountable for the operational day-to-day running of the School. It is by achieving these aims that you can be sure that you have effective governance.

Your overarching duty is the preservation and development of the Catholic character of the School. Your core strategic functions, as a Governing board, therefore, are in:

1. Ensuring clarity of Catholic vision, ethos and strategic direction
2. Holding the appropriate senior leadership to account for the educational performance and Catholic character of the School and its pupils; and for the internal organisation, management and control of the School, including performance management of staff; and
3. Overseeing the financial performance of the School and making sure its money is well spent.

**Protocol 1** You must ensure that your governance arrangements comply with the law.

**Protocol 2** You must continue to preserve and develop the Catholic character of the School at each layer of governance and to fulfil the three core strategic functions (including ensuring clarity of Catholic vision, ethos and strategic direction referred to above).

**Protocol 3** Your governance and management structures and arrangements must be in line with Diocesan policy that may be published from time to time. The policy will be available directly from the Diocese.

**Protocol 4** If you are an Academy Trust Company, you must ensure that you use both the CES model Articles of Association and the CES model Scheme of Delegation (which sets out the structure and layers of governance); as determined by the Diocesan Schools Commissioner.

**Protocol 5** You must use the information, guidance, resources and model CES employment documentation including the CES User Guide which relate to governance arrangements available from the CES website. A list of all the CES governance documentation can be found in the CES Governance Manual that may be published from time to time.

**Protocol 6** You should conduct an annual self-evaluation to identify for yourselves existing strengths and areas for further development. To enable you to comply with the core strategic functions you must [complete the CES skills audits and the CES model self evaluation form for governing boards and] engage with the Diocesan Schools Commissioner, on a regular and ongoing basis.

**Protocol 7** You must adhere to Diocesan policy on Governance Statements and are advised to consult your Diocesan Schools Commissioner before you adopt the CES Model Governance Statement to ensure compliance with any particular Diocesan policy. The policy will be available directly from the Diocese.

**Protocol 8** You must follow the CES Governance Manual as published from time to time

**Protocol 9** You must comply with any requirements and directions as determined by the Diocesan Schools Commissioner to address areas for improvement (in particular any requirements and directions following any governance review).

**Protocol 10** You must complete all Diocesan induction and other training for directors/governors that may be required by the Diocese.

**Protocol 11** You must pay the diocesan contribution per pupil as stipulated from time to time by the Diocesan Bishop.

## 12. DIOCESAN PROTOCOLS on STAFFING and RECRUITMENT

The CES provides model employment documentation that the School must use for its staff during the stages of application, recruitment and appointment and then throughout the life of the employment relationship [including issues in relation to appraisal and performance management].

CES employment documentation is produced to ensure that the staff member and the employer, are both aware of, and bound by, the terms and conditions of employment which relate to the required Catholic character of the school.

The CES is also concerned to ensure that those persons within the school environment who issue CES employment documentation to prospective staff members (particularly the CES model contracts of employment) understand the nature and the obligations and expectations on the employee, by which the prospective employee will be legally bound.

This is set out in the Bishops' Memorandum on the Appointment of Teachers in Catholic Schools ("the Bishops' Memorandum"). The aim of the Bishops' Memorandum is to "help and guide employers in the School to fulfil their responsibilities, including statutory responsibilities, to preserve and develop the Catholic character of the school in relation to the appointment of teachers".

**Protocol 1** You must follow the Bishops' Memorandum. This is an extremely important document which has been issued by the Bishops of England and Wales and which sets out their collective requirement on all Schools that are Catholic in relation to staffing and that you must use CES contracts of employment, workplace policies and associated model employment documents. Each school, or academy, within the Diocese must have a copy of the Bishops' Memorandum and comply with it. This includes the appointment of CEOs by the Diocesan Project Board.

**Protocol 2** You must follow Diocesan policy which sets out the understanding and expectations of what it means to be a practising Catholic which will assist any applicants to appropriate roles to understand what these requirements are. The policy is included in the Recruitment Toolkit and is available directly from the Diocese.

**Protocol 3** You must follow the CES User Guide On Model Employment Documentation (For Staff In Catholic Schools And Academies) which brings together all of the CES employment documentation. This is available for use by the School from the CES website. It provides guidance on all CES model employment contracts and associated documentation such as the CES model workplace policies on Appraisal for Teachers; Appraisal for Support Staff; Capability; Disciplinary; Grievance and Sickness Absence. A complete list of all CES employment documentation can be found in Appendix I of the User Guide. A complete list of frequently asked questions can be found in Appendix II of the User Guide.

**Protocol 4** You must follow the CES Guidance Note on Recruitment of Staff for Governing Bodies which is available for download on the CES website and takes the governing board through the process of recruiting, including issues to look out for or be aware of (for example disability/Catholicity requirements/disqualification etc) and also includes a helpful checklist of items to be completed before an offer of employment should be made. The Diocese also produces a Recruitment Toolkit which includes all necessary documentation, and is available on request from the Education Office.

**Protocol 5** You must inform the Diocesan Schools Commissioner, at the earliest point, of any vacancies and of processes for recruitment of senior leadership such as Chief Executive Officers, Headteachers, Deputy Headteachers, Principals, Deputy Principals, chaplain; Executive Heads, Heads of School and Head or co-ordinator of Religious Education which must be filled by a Practising Catholic (and also in terms of any such temporary appointments and secondments). The Bishop has the right to send a representative to Appointment Interviews, so you should not organise the dates before contacting the Diocese.

**Protocol 6** The Bishop is entitled to rights of attendance in the appointment of senior leaders and teachers of religious education and generally in terms of disciplinary procedures because he has rights of episcopal oversight (as set out in the Bishops' Memorandum and) as reflected in the CES employment policies. The Bishop has the right to veto the appointment of a particular candidate if he considers that such an appointment would prejudice the Catholic character of the school.

**Protocol 7** You must ensure that any HR and legal advice comes from an adviser who is an expert in employment law and a specialist in the Catholic education sector.

**Protocol 8** You must ensure that the Diocese is advised of senior leaders in your school who may be working within other schools [or in a different Diocese].

### 13. DIOCESAN PROTOCOLS on SAFEGUARDING

In accordance with statutory requirements certain pre-employment checks must be conducted by the School for positions that involve work with vulnerable groups, specifically children and vulnerable adults. The information obtained from these checks is used to help safeguard these groups.

**Protocol 1** You must follow any guidance on safeguarding from your Diocese that may be published from time to time. The guidance will be available directly from the Diocese.

**Protocol 2** If you are an Academy Trust Company you are required to determine who will be responsible for safeguarding in your academies in line with your Scheme of Delegation and if needed to notify the Diocese of any such arrangements.

**Protocol 3** You must follow statutory guidance set out in Keeping Children Safe in Education and as published by the Department for Education from time to time.

**Protocol 4** You must follow the CES Guidance Note on Recruitment of Staff, which is available for use by Governing Bodies and available for download on the CES website. It takes the governing board through the process of recruiting, including issues to look out for or be aware of (for example disability/Catholicity requirements/disqualification etc) and also includes a helpful checklist of items to be completed before an offer of employment should be made.

**Protocol 5** You must follow CES Guidance on DBS checks for those working/volunteering in Catholic schools and academies within the School that may be published from time to time.

### 14. DIOCESAN PROTOCOLS on RELATIONSHIP WITH TRADE UNIONS

All employees and workers in a Catholic school or academy have the right to join a trade union and take part in its activities. This right not only flows from the current law in England and Wales but also from the Catholic Church's social teaching. The Second Vatican Council's Pastoral Constitution on the Church in the World (*Gaudium et Spes*) states: "*Among the basic rights of the human person is to be numbered the right of freely founding unions for working people. ... Included is the right of freely taking part in the activity of these unions...*" (para.68). The 1996 Bishops' Conference document "*The Common Good and the Church's Social Teaching*" also elaborates on this, and other rights of workers derived from the Church's teaching (paras.91-95).

It is for this reason that the CES has, for many years, stipulated this right in the CES model contracts of employment. For so long as the current law remains, it may seem, strictly speaking, unnecessary to give this as a contractual right as well. However, it is retained for two reasons. First, because the right deriving from the Church's social teaching predates the current law now guaranteeing this for all workers. Second, and more importantly because, if the current law were to change in any way, this would not affect workers in Catholic schools, where it clearly exists as a contractual right over and above any statutory minimum.

**Protocol 1** You must use guidance in relation to trade unions set out in the CES User Guide On Model Employment Documentation (For Staff In Catholic Schools And Academies) (particularly on model employment documentation for schools and academies and your relationship with trade unions). This User Guide is available on the CES website.

**Protocol 2** You must alert the Diocesan Schools Commissioner as soon as possible to any issues that may arise that are likely to cause problems and/or lead to industrial action and/or lead to reputational damage.

**Protocol 3** If you are approached by any trade union to agree any issue or document (such as school staff workplace policies and procedures and/or recognition agreements), you must notify your Director of Education immediately.

**Protocol 4** You must ensure that any HR and legal advice comes from an adviser who is an expert in employment law and a specialist in the Catholic education sector

## 15. DIOCESAN PROTOCOLS on YOUR ROLE in relation to DIOCESE of WESTMINSTER RELATIONSHIP WITH AUTHORITIES

### Diocesan Protocols for Department for Education and Welsh Government

The Catholic Education Service (CES) liaises directly with the Department for Education and the Welsh Government on behalf of all Dioceses as appropriate. The CES acts on behalf of the Catholic Bishops' Conference to support Catholic education.

The CES has two principal tasks:

- Representing the views of the Bishops collectively to the governments and other national agencies and;
- Supporting dioceses in carrying out their educational functions

The CES has a strong and positive working relationship with both the UK and Welsh Governments, sharing the aims of high academic standards for all and increased parental choice.

Dioceses avoid engaging with national bodies (such as the Department for Education (DfE)) in matters within the competence of the CES (rather than local matters). If a national body spontaneously contacts the Diocese on such a matter, they will normally be referred to the CES. Dioceses will seek to involve the CES in any matter where a national policy position of the Bishops may arise.

The CES has no direct contact with individual Catholic schools except with the consent, express or implied, of the Diocese.

**Protocol 1** Dioceses do, at times, liaise directly with divisions within the DfE (such as the Education Funding and Skills Agency) where they may have direct contact alongside the CES. You must not liaise directly with the Department for Education or other government department without the express permission of your Diocesan Schools Commissioner unless required to do so by law.

### Diocesan Protocols for Regional School Commissioners (RSCs) in England

Regional Schools Commissioners (RSCs) are currently delegated to take the majority of decisions relating to academy conversions, intervention and sponsorship in each region, on behalf of the Secretary of State.

The Memorandum of Understanding between the Catholic Church and the Department for Education available on the DfE website (“the Memorandum of Understanding”) is intended to guide and support RSCs and Dioceses in their relationship. Both parties will be expected to act in accordance with the principles and protocols described by the Memorandum of Understanding.

You must therefore reinforce the direct relationship set out in the Memorandum of Understanding that the RSC and the DfE must have with the Diocese and particularly with the Diocesan Schools Commissioner. The Diocesan Schools Commissioner is charged with ensuring that schools and academies carry out the will of the Bishop and as a result has the authority to speak on your behalf as mandated by the governing documents for your School so you must follow these Protocols:

**Protocol 1** You must refer any direct communication between you and the RSC, any other division of the DfE, or other government department to the Diocesan Schools Commissioner.

**Protocol 2** You must alert the RSC and any other division of the DfE (and/or or other government department) that any direct communication between you and them will be referred to the Diocesan Schools Commissioner.

**Protocol 3** The Diocesan Schools Commissioner will make representations to the RSC and any other division of the DfE (and/or any other national body) on your behalf (unless the CES is charged with that responsibility), unless the Diocesan Schools Commissioner agrees otherwise.

### **Diocesan Protocols for Local Authorities in England and Wales**

The Diocesan Schools Commissioner is charged with ensuring that schools and academies carry out the will of the Bishop and, as a result, has the authority to speak on your behalf as mandated by the governing documents for the School. These rights are fulfilled through representatives who attend on behalf of the Diocesan Bishop where they have a right to be a member of certain local authority committees and fora and to have voting rights.

**Protocol 1** The Diocesan Schools Commissioner is charged with negotiating with officers of the local authorities (and the DfE) in matters relating to, for example, the provision of school places and school buildings.

**Protocol 2** You must immediately notify the Diocesan Schools Commissioner of any notices (warning or otherwise) that your School (or any school within it) may receive from the local authority.

**Protocol 3** The Diocesan Schools Commissioner is charged with nominating and appointing the persons representing the Diocesan Bishop at County Council committees where the Diocesan Bishop has a right to attend.

**Protocol 4** The Diocesan Schools Commissioner is responsible for informing you of committee agenda items pertaining to education as appropriate.

**Protocol 5** You can bring to the attention of the appropriate Diocesan officer issues you would like the Diocesan Bishop's representatives to bring to County Council Committee level.

**Protocol 6** Your Diocesan Schools Commissioner consents to you communicating directly with the local authority provided that:

- You will continue to preserve and develop the Catholic character of your School;
- You have regard to the Catholic character of your School and not do anything detrimental or prejudicial to the interests of the same.

## 16. DIOCESAN PROTOCOLS on CONSULTATIONS

The Catholic Education Service (CES) acts on behalf of the Catholic Bishops' Conference to support Catholic education. The CES has a strong and positive working relationship with both the British and Welsh Governments, sharing the aims of high academic standards for all and increased parental choice.

Views are very regularly sought by the British and Welsh government on new or changing government policies. Government departments take these responses into consideration before making decisions. The CES responds to consultations and liaise directly with the Department for Education and the Welsh Government on behalf of all Dioceses as appropriate.

Dioceses avoid engaging with national bodies (such as the DfE) in matters within the competence of the CES (rather than local matters). If a national body spontaneously contacts the diocese on consultations or other related matters, they will normally be referred to the CES. Dioceses will seek to involve the CES in any matter where a national policy position of the Bishops may arise.

The Diocese has legal status as a partner with local authorities in the provision of school places, and has the opportunity to respond to a significant number of consultations from local authorities and central government departments and agencies each year.

The CES liaises directly with the Department for Education and the Welsh Government on behalf of all Dioceses in responding to consultations.

The CES has no direct contact with individual Catholic schools except with the consent, express or implied, of the Dioceses.

- Protocol 1** Where the CES is not involved, the Diocese, in representing the views of the Diocesan Bishop on matters pertaining to education in the area of the Diocese, will continue to be the delegated respondent in relation to all relevant consultations including; those originating from the local authority; and those pertaining to or with implications for the Diocese, unless the Diocesan School Commissioner determines otherwise.
- Protocol 2** In the event of a consultation originating from the local authority or regarding that area, the Diocese may wish to consult with you further as appropriate before any response is made.
- Protocol 3** You may, from time to time, be requested by your Diocese to submit particular consultation responses on behalf of the School in line with Diocesan requirements.

## 17. DIOCESAN PROTOCOLS on ADMISSIONS

Admission criteria are set by the governing board and published in its admissions policy. It is the responsibility of admission authorities to ensure that admission arrangements i.e. the overall procedure, practices, criteria and supplementary information to be used in deciding on the allocation of school places and any device or means used to determine whether a school place is to be offered, are compliant with the law and, , admissions legislation and the 2014 School Admissions Code<sup>8</sup> (“the Code”).

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 all Catholic schools.

Accordingly, the religious authority for all Catholic schools, including those in the trusteeship of a religious order, is the Diocesan Bishop. In accordance with the Code, the admission authority must consult with the religious authority (the Diocesan Bishop) when deciding how membership or practice of the faith is to be demonstrated. As the local ordinary, it is for the Diocesan Bishop to decide how membership and practice is to be demonstrated for the purposes of admission to the school.

You are the admissions authority and you will carry out your statutory duty in consulting on and determining the admissions arrangement for any schools you are responsible for.

**In Catholic voluntary aided schools** the admission authority is the governing body.

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<sup>8</sup> issued under section 84 of the School Standards and Framework Act 1998

**In Catholic voluntary academies** the admission authority is the academy trust company for its member schools. This means that the MAT is responsible for determining the admission policies for all its schools and taking decision on applications. The MAT may, however, delegate responsibility for determining the admission policies for an individual school within the MAT, and/or taking decisions on applications, to the local governing body or local committee of the individual schools.

Your governing documents require that you comply with the requirements of Canon law which provides that the Diocesan Bishop has canonical responsibility to commission sufficient places to meet the needs of baptised Catholic children resident in his area. Adherence to the protocols set out below will assist the Diocesan Bishop in fulfilling those obligations.

**Protocol 1** You are required by law to comply with the Trust Deed and constitutional documents in discharging your functions, including when determining admission arrangements. For schools the constitutional document is their Instrument of Government and for academies, is their Articles of Association. The constitutional documents include the school's duty to serve as a witness to the Catholic faith, and to comply with the requirements of canon law.

**Protocol 2** You have an over-riding duty to offer places to Catholics first. Where this is a requirement of the Trust Deed and/or diocesan directive, it is thereby a legal requirement on governing bodies. Catholic schools must not operate any policies if the consequence is to offer a place to a non-Catholic and deny that place to a Catholic.

**Protocol 3** You will ensure that the Diocesan Schools Commissioner receives [regular and timely] reports from you on admissions to assist the Diocesan Bishop in his responsibilities.

**Protocol 4** The Diocese will provide advice, support and guidance in relation to school admissions to your School (and in the case of MATs to each academy's local governing board or local committee of the individual schools)

**Protocol 5** You must work closely, through the Diocesan Education Service, with other local Catholic schools. This will ensure that the criteria fit well with those of other local schools and that no group of Catholics is disadvantaged by the system.

**Protocol 6** You must follow the *Guidance on Admissions to Catholic Schools* ("the Guidance") published by the Diocese and reviewed from time to time. You may only use the methods and definitions laid out in the Guidance. You must have regard to the Guidance in accordance with para. 1.38 of the Code, unless it does not comply with

the mandatory provisions and guidelines of the Code or the school can demonstrate that it has considered and engaged with the guidance and has a clear and proper reason to depart from it.

**Protocol 7** You must ensure that your admissions arrangements meet the requirements of both the Code and of the Guidance referred to in Protocol 3 above.

**Protocol 8** You must determine the School's admission arrangements annually. You must do so formally each year, even when the admission arrangements remain the same. It is important that the governing board ensure that its decision to determine the admission arrangements each year is documented and that they keep records to evidence that they have done so.

## **18. DIOCESAN PROTOCOLS on SCHOOL PLACE PLANNING**

The Diocesan Bishop has canonical responsibility to commission sufficient school places to meet the needs of baptised Catholic children resident in his area.

The Diocese is a statutory partner, with local authorities, in the planning and provision of school places and the Diocese is charged with this responsibility through the Diocesan Bishop.

**Protocol 1** Additional Places: To ensure that the Diocesan Bishop is able to fulfil his canonical responsibility, the Occupier must comply with the Diocesan Bishop's directions to increase the number of pupils on roll, whether on a temporary or permanent basis.

**Protocol 2** Data: To ensure that the Diocesan Bishop is able to fulfil his canonical responsibility, the Occupier must comply with the Diocesan Bishop's directions to supply data relating to a) applications for admission (statutory admission rounds) and b) registered pupils.

**Protocol 3** Initial Consent: Prior to the commencement of any discussions relating to an increase/decrease in PAN, the Occupier must obtain written approval from the Diocesan Schools Commissioner.

**Protocol 4** Consultation: Before committing to a change in PAN, the Occupier must consult as prescribed in Regulations relating to School Organisation.

**Protocol 5** Strategic Planning: When developing "Options for Change" in a geographical area, the Diocesan Schools Commissioner and other Employees of the Diocese will liaise

with Catholic Schools in that area, as appropriate, before making any formal recommendations to the Education Commission and Diocesan Bishop.

## 19. DIOCESAN PROTOCOLS on ACCOUNTING

The Diocesan Trustees may need to, for example; monitor the financial health of the School; ensure you achieve efficiencies and value for money; ensure you optimise resources and invest in teaching and learning; consider any purchasing, tendering and contracting requirements. This is to ensure that the Diocesan Bishop is aware of any risks to the School which might impact on the future viability of the School which would impact on the provision of Catholic schools across the diocese.

These protocols sets out the diocesan requirements when dealing with accounting issues.

**Protocol 1** You must ensure that your accounting arrangements comply with the law (and in the case of an Academy Trust Company with the current Academies Financial Handbook, Academies Accounts Directive and any relevant SORP)

**Protocol 2** If you are an Academy Trust Company, you must 1) follow Diocesan auditing requirements on Church assets and 2) prepare a financial scheme of delegation, (a copy of which must be provided to the Diocesan Schools Commissioner) and 3) you must determine who will be responsible for accounting in line with your Scheme of Delegation and the current Academies Financial Handbook [and if required to notify the Diocese of any such arrangements].

**Protocol 3** Your Diocese may require from you qualitative authenticated and accurate financial information (including but not limited to details of anticipated and actual expenditure and income, a financial forecast and a 5 year budget plan), in a form and at times determined by your Diocese. You may also be required to provide copies of any returns made to the ESFA.

**Protocol 4** You must complete Governance Statements at least once per academic year (and in the case of an Academy Trust Company as part of your legal obligation to submit a Confirmation Statement (also referred to as an Annual Report)). You must consult your Diocese before you adopt the CES Model Governance Statement(s) available on the CES website to ensure compliance with any particular diocesan policy. The policy will be available directly from the Diocese.

**Protocol 5** In the case of a Catholic Academy Trust Company, you must create and maintain a register for Persons with Significant Control.

**Protocol 6** You must pay the diocesan contribution per pupil as stipulated from time to time by the Diocesan Bishop.

**Protocol 7** *You must recognise and manage present and future risks, including contingency and business continuity planning, to ensure your continued and effective operation. You may be required to provide a report on risk management to the diocese during the academic year.*

## 20. DIOCESAN PROTOCOLS on CAPITAL ASSET MANAGEMENT

Most Catholic Schools, and the land they are built on, are owned by the Diocese. They are held on charitable trust by Diocesan Trustees, appointed by the Diocesan Bishop. The role of the Diocesan Trustees is to administer the property of the Diocese in accordance with its Trust Deed, making it available to the Diocese led by the Bishop.

Other Catholic Schools, and the land they are built on, are mainly owned by Religious Orders. They have their own Trustees and Trust Deeds, but are nevertheless within the authority of the Diocesan Bishop

Trustees (Diocesan or Religious Order) provide the land and buildings thereon (the School Premises) for use as a Catholic School so that those granted permission to occupy those premises may conduct a Catholic School on their behalf, under the supervision of the Diocesan Bishop.

VA School Governors or Academy Directors are granted permission to occupy the premises subject to the Trustees' objects and any other parameters laid down by them. Whilst the Trustees permit the occupation of their school site for the time being, they do not confer any proprietary rights and controls to the occupiers. Decisions relating to the School Premises rests with the Trustees.

**Diocesan Catholic School:** These protocols are issued on behalf of the Diocesan Trustees and are Mandatory.

**Religious Order Catholic Schools:** Protocols relating to the Maintenance and Management of School Premises, provided by Religious Order Trustees, will be issued at the discretion of the Trustees. Therefore, the Protocols contained in this section are for information only.

**Capital Asset Management Includes:** Planned and/or Reactive Maintenance (Condition), Adaptation of Existing Buildings (Suitability) and Increasing/Decreasing the Net Capacity by extending existing buildings, adding new buildings or demolishing buildings (Sufficiency).

**Protocol 1** The Occupier must ensure that the Diocesan Trust property and assets remain under the control of the Trustees, and that measures are in place to prevent

losses or misuse. Any documentation or communication that makes reference to the Trust's property or assets must be referred immediately in line with the Diocesan Communication Protocol to the appropriate Diocesan Education Officer.

**Protocol 2** The Occupier is responsible for all costs and fees incurred by the Diocesan Trustees relating to any contract, licence or other matter affecting the occupied School Premises. In addition, the Occupier is responsible for any and all legal, financial and operational responsibilities associated with a Capital Works project on or to the assigned School Premises.

**Protocol 3** The Occupier must maintain the assigned School Premises in Good Order and produce, on direction from the Trustees, information relating to planned and reactive maintenance (historical, current or planned). Such information may include, the Strategic Maintenance (7 Year) Plan and evidence of planned budgetary maintenance investment and historical maintenance expenditure.

**Protocol 4** When considering Capital Works, the Occupier must comply with any Policies, Standing Orders and Financial Regulations issued by the Trustees relating to the Management, Financing and Procurement of Capital Works Projects. In addition, the Occupier is responsible for compliance with all legislation, regulation and Statutory Guidance relating to Health and Safety and Construction Design and Management (CDM).

**Protocol 5** The Occupier must adhere to all Diocesan Trust Policy relating to Capital Works that may be published from time to time. Policy Documents will be available directly from Diocesan Departments and published on the Education Service Website. For advice on permissions needed for Capital Works please contact the Diocesan Education Service. The project management and administration of all Capital Works will be performed centrally by the Diocesan Trust via Aedificabo, a Diocesan wholly owned subsidiary.

**Protocol 6** The Occupier must ensure all statutory requirements for Capital Works are complied with (including but not limited to conditions relating to planning approval; listed buildings consent and building regulations consent). They must also provide evidence of compliance upon a request.

**Protocol 7** The Occupier must ensure that the School Premises are correctly insured and that that insurance meets or exceeds the minimum levels of cover specified by the Trustees in negotiation with the Catholic Insurance Association. Furthermore, the Occupier must obtain additional insurance as may be required, from time to time, when undertaking Capital Works and ensure that such work is delivered in accordance with all policy requirements and limitations imposed by the insurer.

**Protocol 8** The Occupier must appoint a Trustee approved Specialist Building Consultant to advise and assist the Governors/Directors with all aspects of School maintenance, Statutory Compliance and Capital Works. Neither the Occupier, nor an employee of the occupier may act as Principal Designer (CDM Regulations 2015) or undertake any of the roles and responsibilities properly assigned to a Specialist Buildings Consultant. The Occupier and their Employees are designated as “Clients” and must limit themselves to that specified role. The Diocesan Trustees commit to maintaining a list of competent professionals from which the Occupier will select their preferred Consultant.

**Protocol 9** On occasions, an Occupier may seek to propose a significant change/development to the School Premises that is not funded from the public purse. On those occasions, the Occupier must present an Outline Business Case (OBC) detailing the justification, scope of work, cost and the source of funding sufficient to meet those costs. All fees and other costs associated with the preparation of an OBC are the liability of the Occupier and are not recoverable should the proposal be declined. Only proposals developed by a Diocesan Trustee Approved Specialist Building Consultant will be considered by the Trustees.

## 21. DIOCESAN PROTOCOLS on STANDARDS

As an integral part of its educational vision for the holistic formation of children and young people, the Catholic Church expects you to promote and uphold high standards, including academic standards, the overarching principle which is to preserve and develop the Catholic character of each school. This is best achieved through a committed working relationship with your Diocese.

Canon 806 provides:

*The Diocesan bishop has the right to watch over and inspect the Catholic schools in his territory ....and has the right to issue directives concerning the general regulation of Catholic schools....Those who are in charge of Catholic schools are to ensure, under the supervision of the local Ordinary, that the formation given in them, in its academic standards, are at least as outstanding as that in other schools in the area.*

**In Catholic voluntary aided schools**, the Diocesan Bishop's oversight is exercised through his Diocesan Schools Commission in close partnership with the local authority. This recognises that in VA schools, it is the local authority which holds the statutory responsibility for monitoring effectiveness and intervention, and to inform the Diocesan Schools Commissioner when a school gives cause for concern.

**In Catholic voluntary academies**, the Diocesan Bishop's oversight is exercised through his Diocesan Schools Commission in close partnership with the relevant Catholic Academy Trust Company,. This recognises that in academies, it is the academy trust company, that holds responsibility for monitoring effectiveness and intervention, and to inform the Diocesan Schools Commission when an academy gives cause for concern.

Catholic schools controlled by **Religious Orders** or **Independent schools** are works of the apostolate and, therefore, subject to the authority of the diocesan bishop (cc. 678, §1; 806, §1).

You are responsible for standards in the schools within the School and for putting in place appropriate remedial and support strategies to enable schools in challenging circumstances to become at least 'good' according to the Ofsted criteria.

A school in challenging circumstances is one which is judged "Requires Improvement" or "Inadequate" in its last Ofsted Section 5 inspection. There are also occasions when school is judged "Good" or "Outstanding" finds itself in challenging circumstances for a variety of reasons, e.g. leadership issues, drop in achievement, parental complaints.

**Protocol 1** You are responsible for (and must ensure that the Catholic Character permeates throughout) standards in the schools and academies within the School.

**Protocol 2** You will report any relevant information to the Diocesan Schools Commissioner to provide assurances that standards are being met, in a form and at times determined by your Diocese.

**Protocol 3** You must adhere to any Diocesan policy on schools causing concern that may be published from time to time. The policy will be available directly from the Diocese.

**Protocol 4** You are responsible for determining support strategies for schools within the School that are in challenging circumstances and for monitoring and reporting on the progress in these schools.

**Protocol 5** You must notify the Diocesan Schools Commissioner of any school or academy within the School that is in challenging circumstances. You must update the Diocesan Schools Commissioner of any developments that may take place after initial notification (and follow Diocesan recommendations).

**Protocol 6** You must immediately notify the Diocesan Schools Commissioner of any notices (warning or otherwise) that your School (or any school within it) may receive from the local authority.

**Protocol 7** You must inform the Education Service annually of your school's academic performance as requested.

## 22. DIOCESAN PROTOCOLS on RELIGIOUS EDUCATION

Religious Education is ‘not one subject among many, but the foundation of the whole educational process’<sup>9</sup>. It is the “core of the core curriculum”<sup>10</sup>

Canon 804, §1 makes it clear that religious education is subject to the authority of the Church:

*The Catholic religious instruction and education which are imparted in any schools whatsoever or are provided through the various instruments of social communication are subject to the authority of the Church. It is for the conference of bishops to issue general norms about this field of action and for the diocesan bishop to regulate and watch over it.*

The Bishops Conference of England and Wales issues general norms about Religious Education for all Catholic schools in England and Wales, this includes independent schools non-maintained schools and sixth form colleges, whether in diocesan or religious order trusteeship.

These norms are currently set out in the Religious Education Curriculum Directory for Catholic Schools and Colleges in England and Wales (RECD). Each Diocesan Bishop may then issue specific directives for his own Diocese on examination specifications and resources to be used. The Diocesan Bishop, through his diocesan education service, will also inspect the religious education provided at the School.

All Catholic schools are therefore required to secure 10% of the taught week for the teaching of Religious Education in Key Stages 1-4, and 5% of the taught week in Key Stage 5<sup>11</sup> These curriculum requirements, at all key stages, apply equally to all types of Catholic schools, including independent schools and sixth form colleges, whether in the trusteeship of the diocese or a religious order.

### **Voluntary aided schools**

The local authority, governing board and head teacher of voluntary aided (VA) schools in England and Wales must ensure that Religious Education is provided as part of the school’s basic curriculum<sup>12</sup> In VA schools with a religious character, such provision must be in accordance with the provisions of the Diocesan trust deed relating to the school: For our purposes, in accordance with the general norms prescribed in the RECD.<sup>13</sup>

### **Voluntary academies**

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<sup>9</sup> *Religious Education in Catholic Schools, 2000, n.4*

<sup>10</sup> *Pope John Paul II address to the Catholic Bishops of England and Wales on their Ad Limina visit on 26 March 1992.*

<sup>11</sup> *These legal requirements are placed on an academy trust company through their funding agreement. The Mainstream Academy and Free School: Supplemental Funding Agreement (April 2016) provides, in the section relating to ‘curriculum’, that the academy trust company “must comply with section 71(1)-(6) and (8) of the School Standards and Framework Act 1998 as if the academy were a community, foundation or voluntary school”*

<sup>12</sup> *s.69(1) School Standards and Framework Act 1998*

<sup>13</sup> *Schedule 19(2) Schools Standards and Framework Act 1998*

Academy Trust Companies in England must also ensure that religious education is provided as part of the school's basic curriculum and equally that such provision must be in accordance with the provisions of the Diocesan trust deed relating to the academy trust company (and through their Articles of Association and through their funding agreement): For our purposes, in accordance the general norms prescribed in the RECD.<sup>14</sup>

As the core of the curriculum, Religious Education is a proper academic discipline with the same systematic demands and rigour as all other subjects on the curriculum <sup>15</sup> . It therefore requires comparable treatment in terms of staffing, facilities and devolved budgets as other core curriculum subjects, such as English and Maths.

The Diocesan Bishop has the duty to ensure that those who advise Catholic schools and academies on all matters relating to Religious Education are competent to do so. The Diocese has the responsibility to appoint and train those persons who meet the Diocesan Bishop's requirements in relation to competency to monitor and advise on denominational Religious Education in Catholic schools and academies in the Diocese.

**Protocol 1** You must adhere to any Diocesan policy on Religious Education. The policy will be available directly from the Diocese.

**Protocol 2** You must ensure that the curriculum for Religious Education for each school/academy within the School conforms to the general norms prescribed by the Catholic Bishops' Conference of England and Wales as currently laid out in the Religious Education Curriculum Directory.

**Protocol 3** You must ensure that 10% of taught curriculum time is dedicated to Religious Education in Key Stages 1-4 and 5% for Key Stage 5 (non-examination Religious Education for 16-19 year old students) in all schools and academies within the School.

**Protocol 4** You must ensure that as a core curriculum subject, Religious Education has parity with other core curriculum subjects in each school in all relevant respects, e.g. staffing, capitation, accommodations, professional development opportunities.

**Protocol 5** You will refer to the CES model Self Evaluation Form for further guidance on Religious Education

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<sup>14</sup> *Schedule 19(2) Schools Standards and Framework Act 1998*

<sup>15</sup> *Congregation for Catholic Education, Circular Letter to the Presidents of Bishops' Conferences on Religious Education in Schools, May 2009, paragraph 18*

## 23. DIOCESAN PROTOCOLS on INSPECTIONS (canonical and statutory):

The Diocesan Bishop has a canonical right to inspect any Catholic school in his Diocese at any time.

*Can. 806 §1. The Diocesan Bishop has the right to watch over and visit the Catholic schools in his territory, even those which members of religious institutes have founded or direct. He also issues prescripts which pertain to the general regulation of Catholic schools; these prescripts are valid also for schools which these religious direct, without prejudice, however, to their autonomy regarding the internal direction of their schools.*

This right covers any kind of Catholic school, academy or college: voluntary aided schools, academies, non-maintained schools, independent schools and sixth form colleges, regardless of trusteeship. This inspection is properly called a Canonical, or diocesan, inspection and can be carried out by an appropriately appointed diocesan inspector at any point.

Canonical inspection of Catholic schools falls under the jurisdiction of the Diocesan Bishop. All Catholic schools will be inspected by those appointed as inspectors by the Diocesan Bishop. Only persons appointed by the Bishop have the authority to carry out these inspections in all Catholic schools in the diocese.

Inspectors should report judgements on the quality of Religious Education, Collective Worship and the Catholic Life of the School and in the case of s48 inspections and the inspection of Catholic academies are legally required to report on Religious Education and the content of Collective Worship.

Each diocese will determine the frequency with which canonical inspections occur. In the case of voluntary aided schools and academies they must occur at least every five years, with all inspections completed by the end of the fifth school year following the school year in which the last canonical inspection occurred. A grant is available from the Department for Education to contribute to the inspection costs for voluntary aided schools and academies. For those schools judged good or outstanding in their last canonical inspection, these grants are available every five years. For schools judged to be less than good in their last canonical inspection, these grants are available every three years.

### **Voluntary aided schools**

Voluntary aided Catholic schools are statutorily required to organise a denominational inspection which inspects the quality of religious education and the content of collective worship.

*Education 2005, §48; "Inspection of religious education: England (1) It is the duty of the governing body of any voluntary or foundation school in England which has been designated under section 69(3) of the School Standards and Framework Act 1998 by the Secretary of State as having a religious character to secure that—(a)any denominational education given to pupils, and (b)the content of the school's collective worship, are inspected under this section.*

This inspection is called a section 48 inspection. The legislation is arranged so that in most circumstances a school's canonical inspection and its s48 inspection will be one and the same.

## **Voluntary academies**

Academies are in practice subject to the same statute but by force of each of their funding agreements. A section 48 inspection must happen within the fifth year following the end of the school year in which the school or academy was last inspected.

**Protocol 1** You must adhere to any Diocesan policy on Inspections. The policy will be available directly from the Diocese.

**Protocol 2** The Diocese is responsible for arranging inspections of denominational education, the content of collective worship and the Catholic life of the schools and academies in the Diocese.

**Protocol 3** The Diocese will provide to you diocesan inspections reports (for each school/academy that is subject to such inspections) by the end of every fifth year following the end of the school year in which you were last inspected.

**Protocol 4** You must ensure all schools/academies within the School are inspected under Diocesan procedures in accordance with a timetable provided by the Diocese. Only persons appointed by the Diocese may carry out inspections in Catholic schools in the Diocese.

**Protocol 5** You must comply with any requirements to address areas for improvement set out in inspection reports.

## 24. DIOCESAN PROTOCOLS on COLLECTIVE WORSHIP

Pupils in voluntary aided schools in England and Wales are required by law to take part in an act of collective worship on each school day<sup>16</sup> which must be in accordance with the provisions of the Diocesan trust deed and, therefore, in accordance with the tenets of the Catholic faith<sup>17</sup>.

Academy Trust Companies in England must also require pupils to take part in an act of collective worship on each school day which must also be in accordance with the provisions of the trust deed and, therefore, in accordance with the tenets of the Catholic faith. The legal requirements flow from the academy trust company's funding agreement.

Collective worship in Catholic schools can take many forms including class prayer, assemblies for part or whole school, liturgical celebrations, Mass, reconciliation services and seasonal celebrations.

**Protocol 1** You must ensure that Collective Worship in the School is in accordance with the rites, practices, discipline and liturgical norms of the Catholic Church.

**Protocol 2** The Diocese will carry out its duty, on behalf of the Bishop, to monitor, train and advise on the content of Collective Worship in the School and to appoint persons with the competency to carry out this role.

**Protocol 3** You must ensure that the monitoring, training and advising on collective worship in the School is only carried out by the persons appointed by the Diocese

**Protocol 4** You must follow guidance as set out in the CES Guidance on Right of withdrawal from religious education and/or collective worship

## 25. DIOCESAN PROTOCOLS on RELATIONSHIP AND SEX EDUCATION

Any teaching about love and sexual relationships in a Catholic school must be rooted in the Catholic Church's teaching about what it is to be truly human in Christ, what it means to live well in relationship with others and be presented within a positive framework of Christian virtue.

**Protocol 1** You must ensure you meet any statutory requirements for Relationship and Sex Education policies.

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<sup>16</sup> S.70(1) School Standards and Framework Act 1998

<sup>17</sup> Schedule 20 School Standards and Framework Act 1998

**Protocol 2** You must follow the guidance of the Bishops of England and Wales. RSE will be firmly embedded in the PSHE framework as it is concerned with nurturing human wholeness and integral to the physical, spiritual, emotional, moral, social and intellectual development of pupils. It is centred on Christ's vision of being human as good news and will be positive and prudent, showing the potential for development, while enabling the dangers and risks involved to be understood and appreciated.

**Protocol 3** You must ensure all RSE is in accordance with the Church's moral teaching. It will emphasise the central importance of marriage and the family whilst acknowledging that all pupils have a fundamental right to have their life respected whatever household they come from and support will be provided to help pupils deal with different sets of values.

**Protocol 4** Whilst promoting Catholic virtues, you must ensure that children and young people are offered a broad and balanced RSE programme which provides them with clear factual, scientific information when relevant and meets the statutory requirements placed on schools.

**Protocol 5** You must use the Catholic RSE resources for use in Catholic schools available directly from your Diocese which have been approved and recommended for use by the Bishops. These resources have been developed by the CES using expertise of teachers who deliver RSE and PSHE in a Catholic context

**Protocol 6** Your Diocese will provide support and training in RSE in the School as appropriate.

## 26. DIOCESAN PROTOCOLS on EXTENDED SCHOOLS

As well as acting in accordance with the Education Act 2002 in developing extended schools provision, schools have a statutory duty to act in accordance with the Diocesan Trust Deed<sup>18</sup> particularly in "...advancing the Catholic religion in the Diocese". This means that where Catholic schools are situated on Church land, the Diocesan Trustees have a legal duty for ensuring compliance with the Diocesan Trust Deed.

The Diocese wishes to promote the principle of extended schools and supports all schools in developing activities and services that benefit pupils, parents and staff in the school, the local Catholic community and the wider community.

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<sup>18</sup> S21(4) Education Act 2002

Central to any programme in Catholic schools is a commitment to the Common Good in that they cater for and are accessible, as far as is possible, to the poor and marginalised in the community served by the school.

**Protocol 1** In developing and maintaining extended schools provision, you must conduct any working relationships with other schools and academies ensuring that:

- You will continue to preserve and develop the Catholic character of your School;
- You have regard to the Catholic character of your School and not do anything detrimental or prejudicial to the interests of the same
- the assets of the [Diocesan Trustees] are secure and
- you collaborate with Schools that are Catholic where possible.

**Protocol 2** You must adhere to any Diocesan policy on extended schools when developing and maintaining extended schools programmes for schools within the School. The policy will be available directly from the Diocese.

## 27. DIOCESAN PROTOCOLS on WORKING WITH OTHER SCHOOLS

You are encouraged to positively communicate and work (and if possible or necessary collaborate) with other schools and academies as appropriate, whether within the School or not, whether Catholic or not, to preserve and develop an excellent quality of Catholic education.

Please therefore note that the following protocols must be adhered to:

**Protocol 1** You must conduct any working relationships with other schools and academies ensuring that:

- You will continue to preserve and develop the Catholic character of the School;
- You have regard to the Catholic character of the School and not do anything detrimental or prejudicial to the interests of the same
- the assets of the [Diocesan Trustees] are secure and
- you collaborate with Schools and other organisations that are Catholic where possible.

**Protocol 2** Prior to any instance of working with other schools where there may be a compromise of the integrity of governance in accordance with Protocol 1, you must seek direction from the Director of Education

**Protocol 3** You must accept responsibility for making decisions on working with other schools and academies

**Protocol 4** If you are an Academy Trust Company you have the responsibility to determine who will be responsible for working with other schools and academies in line with your Scheme of Delegation and to notify the Diocese of any such arrangements.

**Protocol 5** Prior to you agreeing to any arrangement for a member of the school's senior leadership to be deployed in another school or academy you must seek direction from the Director of Education.

## 28. DIOCESAN PROTOCOLS on COMPLAINTS

### Voluntary Aided Schools

In accordance with Section 29 of the Education Act 2002, schools must have and make available a procedure to deal with all complaints relating to their school and to any community facilities or services that the school provides

### Voluntary Academies

In accordance with the Education (Independent School Standards (England) Regulations 2014 Schedule 1, Part 7, all academies must have a complaints procedure. You can delegate this duty as appropriate in line with the Academy's Scheme of Delegation. The Secretary of State has powers in regards to complaints about academies and academy trust companies

**Protocol 1** You must notify the Diocesan Schools Commissioner of all complaints that may have a detrimental impact upon the School that you receive in relation to the following areas: Catholic character, ethos and mission; Religious Education; Collective worship; Admissions and Relationship and Sex Education; Denominational Inspections[INSERT ADDITIONAL AREAS]

**Protocol 2** You must determine and implement a complaints procedure for the School and for each school/academy within the School

**Protocol 3** You must develop Pupil, Parent and Staff Voice (particularly in relation to the Catholic character of the School) to pre-empt and resolve issues that may have the capacity to develop into complaints at a later stage.

## 29. DIOCESAN PROTOCOLS on PUBLIC AFFAIRS and THE MEDIA

The Diocese is able to provide practical support and to assist to ensure that positive messages prevail (generally and also when dealing with possible reputational damage to the School and the wider Catholic education sector). In order to facilitate this please note the following protocols which must be adhered to:

**Protocol 1** You must follow Diocesan guidance on public affairs and the media that may be published from time to time. This policy is available directly from the Diocese.

**Protocol 2** You must contact your Director of Education should an opportunity arise to promote a positive news story or an incident connected to the School that may be of media interest.

**Protocol 3** You will ensure the Director of Education receives regular and timely reports from you on all issues that may attract attention from local or national journalists before there are any press enquiries.

**Protocol 4** You may provide comment to an external person/body such as a journalist provided that:

- You will continue to preserve and develop the Catholic character of your School;
- You will have regard to the Catholic character of your School and not do anything detrimental or prejudicial to the interests of the same
- the assets of the Diocesan Trustees are secure

**Protocol 5** You must ensure that a link to your Diocese's website is provided on your website.

### 30. DIOCESAN PROTOCOLS on CRISIS MANAGEMENT

There may be a disruptive and unexpected event that threatens to harm your School and/or the Diocese. It may consist of reputational damage to the School; the element of surprise, and a short decision time. In such circumstances, please follow these protocols:

**Protocol 1** You must work in close collaboration with the Director of Education when the School needs legal (and any other specialist) advice in relation to any crisis management. You must ensure that any such advice comes from an adviser who is a specialist in the Catholic (education) sector.

**Protocol 2** You must ensure office staff are appropriately briefed to respond to any media enquiries emanating from the Crisis (including use of a holding statement) following Diocesan guidance and recommendations.

**Protocol 3** You must ensure any public statements from the School are approved by the Director of Education

**Protocol 4** You must ensure that any public statements from the School or from the Diocese are available on your website (as may be directed by your Diocese)

**Protocol 5** Your Diocese will decide and manage the content and method of any media response.

## 31. DIOCESAN PROTOCOLS on CONVERSION TO BECOMING AN ACADEMY

Where there is an exploration for a Catholic voluntary aided school to become a Catholic Academy Trust Company must adhere to the following protocols:

- Protocol 1** You must follow Diocesan policy which sets out their requirements on converting to an academy trust company. The published diocesan documents **Families of Schools: the Implementation of CATs (Sept 17)** and **Academy Strategy & Policy (Jan 17)** set out the vision and practical steps that a school needs to undertake to become an academy within a designated Family of Schools.
- Protocol 2** You must have the written approval of the Diocesan Trustees before you can become an academy<sup>19</sup>. Any decision as to whether consent will be forthcoming will be made by the Diocesan Bishop in accordance with his canonical responsibility in relation to the provision of Catholic education across his Diocese, and in accordance with his requirements in relation to the published set of Families of Schools criteria.
- Protocol 3** Should consent be forthcoming, the Diocese will support you to achieve the timetable for you to become an academy and will provide you with a template and/or best practice advice.
- Protocol 4** You must use documentation approved by the Director of Education and the Academy Implementation Officer in relation to the conversion of the School to academy status including the appropriate model Articles of Association.
- Protocol 5** You must satisfy any administration charges incurred by the Diocese on your behalf that must be paid by the School in relation to the conversion of the voluntary aided school to academy status. This will be covered within your conversion grant provided by the ESFA.
- Protocol 6** You must instruct Browne Jacobson who are approved by the Diocesan Trustees in relation to the conversion of the School to academy status.

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<sup>19</sup> pursuant to the Academies Act 2010, subsection 3(4)

## 32. A cross diocesan multi-academy company established by a Religious Order: canonical considerations

### Introduction and Background

Some Religious Orders<sup>20</sup> have maintained schools in more than one diocese, and some of these are interested in exploring the possibility of establishing a single multi-academy trust company for all of their state-funded schools. So far as we are aware, no cross-diocesan arrangements of this nature currently exist.

Such a company would be established in the usual way, using the CES Model Academy Articles of Association approved by the Department for Education in February 2015. These latest model Articles provide for the establishment of a multi-academy trust company with the Order and its officers as the sole and controlling Members of the Company. The Articles also provide for the appropriate relationship between the company and its academies, and the diocesan bishop. These arrangements (or something similar, based on the previous model articles) are already in use by Religious Orders in the case of stand-alone Religious Order academies.

These arrangements broadly work in the same way, *mutatis mutandis*, as for schools in diocesan trusteeship. Each school cannot apply to become an academy without the written consent of the Religious Order, as trustees of the school,<sup>21</sup> who will then have to agree and sign off all the documentation to establish the company and provide for the conversion of each school to an academy on a particular date. The Order will remain the direct trustees of each of the school, as their ownership of the land and buildings in which the academy is to be conducted remains with them after conversion.

### Canonical considerations

Because of the 50% cap on admissions, all of the schools concerned will be converting from existing Catholic voluntary aided schools, so they will have been established with the consent of the diocesan bishop (c.801). The diocesan bishop will need to be satisfied that Order continues to 'control' the academy (as understood in c.803, §1) under the new arrangements. However, if the CES Model Articles of Association are used, and the Order retains ownership of the land, this test will be satisfied.

The diocesan bishop will also be concerned to ensure that his right to supervise and inspect the academy is guaranteed in the academy documentation. (Again, use of the CES Model Articles will guarantee this.) The actual decision to convert, however, would appear to be

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<sup>20</sup> This term is used as shorthand for Institutes of Consecrated Life and Societies of Apostolic Life.

<sup>21</sup> *Academies Act 2010*, s.3(4).

within the lawful autonomy of the Order in the internal management of their schools which is set out in c. 806, §1, and which the Local Ordinary is obliged to preserve and safeguard (c.586, §2).

Catholic schools controlled by Religious Orders are works of the apostolate and, therefore, subject to the authority of the diocesan bishop (cc. 678, §1; 806, §1). Each academy would be subject to the diocesan bishop in whose territory it is situated. All the above considerations would apply to academy companies which are wholly situated within one diocese. A further consideration for a multi-academy trust company which has academies in more than one diocese, is which diocesan bishop is responsible for supervising and inspecting the conduct of the multi-academy trust company itself (as distinct from any of the academies). It could be the diocese in which the company has its registered office or headquarters, or, since schools and academies are not normally established canonically as separate from the Order, the place where the relevant part of the Order (House, Province) is canonically located. In practice, an agreement between the relevant diocesan bishops as to which of them takes the lead in exercising this jurisdiction would seem sensible.