



DERBY DIOCESAN BOARD OF EDUCATION

FOUNDATION GOVERNORS

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THE CHURCH OF ENGLAND AND ITS SCHOOLS

The school system established in England is largely a product of church initiative with the lead being taken by the Church of England in the 19th century. Today church schools make up around a third of all schools in the maintained sector and continue to play a significant role locally and nationally. Until 1870 the development of a national education system was left entirely to voluntary initiative, with the churches as the main providers. The 1870 Education Act tried to remedy the situation by providing Board schools where church schools didn't exist. The 1944 Education Act enabled church schools to opt into the maintained system by choosing between aided and controlled status, or by becoming independent.

In an aided school church involvement is very significant with the church having a majority on the governing body. Aided school governors, unlike those in controlled and community schools, are employers of all staff, responsible for building extensions and external repairs (for which they receive grant aid from the Department for Education (DFE) and admission authorities for their schools.

Controlled status was designed to enable many of the older church schools to undergo major physical renovations with state funding. Local Authorities (LAs) became totally responsible for controlled school finance, but the school sites remained in the ownership of trustees. The church retains a minority on the governing body.

Because the Church of England is the established church, Measures passed by the General Synod are ratified in Parliament and have the status of law. The 1991 Diocesan Boards of Education Measure (the Measure) gives Boards the power to support and give directions to trustees and governing bodies. At LA level the Diocesan Director of Education has a seat on the Children Service Committee (and any other committee dealing with school matters) with full voting rights.

The Church of England is a major player in developing Religious Education at the local level. The Standing Advisory Council on Religious Education (SACRE) has four committees, one of which represents the Church of England. All four committees can veto developments since all four must be in agreement if proposals are to be put to the Education Committee.

WHAT ARE FOUNDATION GOVERNORS?

Church of England schools were founded to provide an education for the children of the parish, underpinned by the teachings of the Christian faith. They may have been founded by the parish priest, a local benefactor, a group of local people or by the Church of England's National Society, and many of them predate schools provided by the local authorities.

Foundation governors are appointed to maintain the intentions of the original founder. These are set out in the Trust Deed (q.v.). Some provisions made in the Trust Deeds no longer apply but the duty to secure the school as a Christian foundation does!

It is the primary duty of the foundation governors to see that the school remains a church school with all that that implies, and is the reason why they have a majority on the governing body of the voluntary aided school. In a voluntary controlled school they are in the minority but they are still there to see that the school takes account of its church foundation.

The foundation governors have a particular role to play in the appointment of a Head Teacher and Deputy Head Teacher. They should use their majority in the voluntary aided school and their influence in the voluntary controlled school, to ensure that the new Head or Deputy Head is both an excellent practitioner who will work in partnership with the Church to maintain and develop the school's Christian ethos and, in an Aided School, wherever possible, a Christian.

Foundation governors in the voluntary aided schools should also see that the Christian foundation is enhanced wherever possible by the appointment of Christian members of staff.

HOW MANY FOUNDATION GOVERNORS DOES A SCHOOL HAVE?

The actual number of foundation governors is set out in the Instrument of Government for the individual school and the numbers are different for aided and controlled schools.

In both aided and controlled school is one foundation governor who will be ex-officio and the Instrument of Government sets out that this will be the Incumbent of the parish (or someone else nominated by the relevant Archdeacon).

Aided School Foundation Governors – the number of foundation governors varies, with a minimum of 5 in the smallest schools. The foundation governors must always outnumber other governors by a majority of 2.

Controlled School Foundation Governors – the number of foundation governors varies from 2 in the smallest to 4 in the largest primary school. The foundation governors will always be in a minority.

WHO APPOINTS FOUNDATION GOVERNORS?

The Instrument of Government sets out who may appoint foundation governors in individual schools. For schools in the Derby Diocese the bodies who appoint foundation governors are:

- The Diocesan Board of Education (DBE) appoints some foundation Governors on the nomination of the relevant PCC. In the case of controlled schools the DBE appoints all foundation governors other than those who are ex-officio.
- The DFE expects that a proportion of foundation governors in aided schools will be a parent of children in the school and these are nominated by the relevant PCC.
- Historical trusts in a small number of aided schools appoint a single foundation governor to represent their interests.
- In one or two aided schools the PCC has the right to appoint an individual to a foundation governorship.
- In a small number of schools there is a second ex-officio foundation governor representing the Lord of the Manor.

TRUST DEEDS

Church of England schools were founded on two principles:

- the education of the children of the neighbourhood, irrespective of race or creed;
- the education of children in the beliefs and values of Christianity.

When schools were founded a legal document would be drawn up setting out the founder's intentions. For older schools this will be a Trust Deed, more recent foundations may have a Deed of Conveyance instead. One or two schools have been founded under the terms of a donor's will and a small number are private foundations.

The Trust Deed sets out who are the trustees (the owners). In some cases the modern trustees are the successors of the original founders but in many cases trust has been transferred. The majority of schools are now in the trusteeship of the DBE, a few are held by the Diocesan Board of Finance (since they were founded on the parson's glebe land), some have the Rector and Wardens as trustee, a few are held by private trusts and a small number remain in private ownership.

Trust Deeds set out why the school is to be run as a Christian foundation and are the reason why the schools are voluntary rather than county schools. The Deeds may contain statements such as:

- 'to educate the children of the poor in the principles and tenets of the established church'.
- 'to be in union with the National Society'.

It is on the basis of these statements that the governors are allowed to discriminate in favour of staff having a definite Christian commitment in aided schools. It is why governors have power to determine the contents of the RE curriculum in the aided school and why school worship should reflect the school's denominational status.

Although the DBE holds copies of most Trust Deeds for Church Schools in the Diocese of Derby a small number cannot be traced and are deemed 'lost in perpetuity'.

RELIGIOUS EDUCATION

In the voluntary aided school the governors, in consultation with the Head Teacher, determine the content of the RE curriculum. The DBE has published new guidelines on RE **A Celebration of Faith** and copies have been distributed to all schools. The DBE expects that a majority of curriculum time will be given to Christianity but that children will also be taught to have an understanding of, and a respect for, the teachings of other world faiths. The foundation governors are major players in determining the RE curriculum.

In the voluntary controlled school RE is taught according to the LA Agreed Syllabus but many schools also make use of the Diocesan advice and support.

SUPPORT

The Diocesan Education Office is there to support all the church schools and can offer advice and expertise. From time to time we issue guidance to schools and governing bodies on many areas of education and school management, as well as running INSET and Governor Training Courses. We are there to offer support to individual governors but we do want to make it clear that, whilst we are happy to offer general advice where more specific help is sought we must be sure that the individual has the agreement of his or her governors to seek this. Governing bodies must act together and we do not wish to encourage individuals to place themselves in a position where they might be vulnerable.

WHAT IS DISTINCTIVE ABOUT A CHURCH SCHOOL?

Many church schools may not appear to be different to their county school neighbours but there are distinctive elements that governors need to recognise.

Church schools were often formed as trusts during the 19th century and earlier, and predate the introduction of universal state education. They were founded to provide education for the children of the parish and to be a Christian presence,. Where schools no longer see the Christian presence as important their reason for continuing is called into question. Since they were incorporated into a national education structure some of their original aspects have remained untouched by changes in legislation. These notes will clarify the situation but there can be exceptions, particularly over trust and site issues, so if in doubt check with a Diocesan Education Office.

ALL CHURCH SCHOOLS DIFFER FROM COUNTY SCHOOLS IN THE FOLLOWING ASPECTS:

The Instrument of Government

This defines the school's religious identity, contains an ethos statement setting out the basis upon which the school is organised and defines who appoints governors.

Changes

Changes in size, age range and status must be formally published by governing bodies after consultation with the LA. Where the changes relate to admissions to the school they must now consult the LA's Admission Forum. Governors should check the procedures with the Diocesan Board and/or the DFE before publication.

Foundation Governors

These are appointed under the 1996 Education Act 'for the purpose of securing....that the character of the school as a voluntary school is preserved and developed, and, in particular, that the school is conducted in accordance with any Trust Deed'. The appointing bodies are listed in the school's Instrument of Government.

Inspections

The DBE must be sent a copy of the Section 5 (OfSTED) report by the Registered Inspector and will be consulted where a school is judged to be failing.

All church schools have a second inspection, the Section 48 (SIAS) inspection, of collective worship and the spiritual, social, cultural and moral dimension of the curriculum. The DBE is also entitled to a copy of this report. Copies of all reports are sent to The National Society for depositing in the Church of England's archives and publication on its website.

Insurance

The DBE can arrange insurance to cover governors for those aspects of school management not covered under the former LA schemes, e.g. Public Liability Insurance for Trustees.

School Houses

Whether on site or attached to the school these are usually part of the original trust and are therefore to be used for the purpose of the trust. Trusts may be purely educational or a mixture of educational and ecclesiastical, whilst the land may be subject to a Reverter. If the School House isn't used for the purpose of the trust then it must be let or sold at the best possible price.

Trustees normally own school sites

LAs must convey to trustees the whole site of transferred church schools, less the area laid out for playing fields. If the site hasn't been conveyed the LA cannot act as though they hold the freehold. It should be the LA's responsibility to pay the trustee's costs in conveying these sites.

Trust Deeds

These are the legal documents defining the school as a church school. Modern church school foundations may have Deeds of Conveyance or Leases rather than the formal Trust Deeds of older foundations. Many of these are held in the Diocesan Office, others will be held locally or in the Diocesan Archives. Some have been lost and only brief notes of their contents are available.

The Trust Deed is an important document and sets out the intentions of the original founder. It is the document that defines the school as a church school and which allows the governors to insist that teachers have a commitment to the Christian faith. The Deed may contain a Reverter clause that allows the estate of the original founder to reclaim the property should the school close (however many Reverters have been barred by the result of court cases and may no longer apply).

Collective Worship

This must be consistent with the Trust Deed or with the Church of England nature of the School. Many Trust Deeds will contain a proviso that 'children should be educated in the principles and tenets of the established church' or 'the school should be in perpetual union with the National Society and uphold the teachings of the Church of England'.

WHAT MAKES THE VOLUNTARY AIDED SCHOOL DISTINCTIVE FROM OTHER CHURCH SCHOOLS?

Admission and Exclusion Appeals

These are the responsibility of the governors as the 'admission authority'. The procedure and criteria set out by the DFE for exclusions must be followed.

In Derbyshire and Derby City admission appeals on behalf of aided schools are run by the DBE.

Under the 1998 Education Standards and Framework Act all admitting bodies must consult the LA's Admission Forum before any changes in admission criteria or practice are contemplated. It is the Act's intention that there should be greater consistency between all admitting bodies so that parents have all the information they need in a clear format.

Building Maintenance and Improvements

Aided school governors are responsible for external maintenance but up to 90% of the cost of repairs is claimed from the DFCSF. The DBE can offer support and advice

Employment of Staff

The governing body employs all teaching and support staff (in some cases cleaning and kitchen staff) even though the LA meets salary costs. All staff should have contracts that clearly state that the governors are the employers. Teaching contracts can include requirements to teach RE and criteria for recruitment of staff can include faith commitment. Contracts are on the website.

Religious Education

This must be consistent with the Trust Deed and should reflect the school's foundation. In other words RE in a Church of England school should primarily be concerned with the teachings of the Christian faith.

The Board has a policy that children in Church schools should also be taught to understand and respect the beliefs of people from other world faiths.

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