

THE ST JOHN BOSCO CATHOLIC ACADEMY
ACADEMIES

MASTER FUNDING AGREEMENT

For a Multi Catholic Academy

THE ST JOHN BOSCO CATHOLIC ACADEMY

ACADEMIES

MASTER FUNDING AGREEMENT

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SCHEDULE 1

Model Supplemental Funding Agreement for a Catholic Multi Mainstream Academy

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INTRODUCTION

- 1) This Agreement is made under section 1 of the Academies Act 2010, between the Secretary of State for Education (“the Secretary of State”) and The St John Bosco Catholic Academy (the “Company”).
- 2) The Company is a company incorporated in England and Wales, limited by guarantee with registered Company number [TBC].
- 3) The Company intends to establish and maintain, and to carry on or provide for the carrying on of a number of Academies in accordance with this Agreement and the Supplemental Agreements.
- 4) This Agreement and the Supplemental Agreements will apply in respect of an Academy from such time as a Supplemental Agreement relating to that Academy shall have been entered into between the Secretary of State and the Company.
- 5) The following expressions used in this Agreement have the respective meanings assigned to them by the numbered clauses of this Agreement referred to immediately after the reference to the expressions -
 - a) “Academies Financial Handbook” - clause 67;
 - b) “Academy Committee” – clause 15;
 - c) “Accounting Officer” – clause 66;
 - d) “Annual Letter of Funding” - clause 60;
 - e) “Capital Expenditure” - clause 37;
 - f) “Capital Grant” – clause 37;
 - g) “EAG” - clause 36;
 - h) “GAG” – clause 36;
 - i) “Recurrent Expenditure” – clause 36;
 - j) “specified work” – clause 20;
 - k) “Start-up Period” – clause 50;

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- l) "transferred staff member" – clause 20A;
- 6) In this Agreement the following words and expressions shall have the following meanings:-

"Academy Financial Year" means the year from 1st September to 31st August or such other period as the Secretary of State may from time to time specify by notice in writing to the Company;

"Academy" means a Mainstream Academy in respect of which a Supplemental Agreement has been entered into between the Secretary of State and the Company and the expression "Academies" shall refer to all or any of such Academies;

"admission requirements" – are annexed to the relevant Supplemental Agreement;

"the Articles" means the Articles of Association of the Company for the time being in force;

"this Agreement" means this agreement and its annexes and a reference in this Agreement to a numbered clause or annex is a reference to the clause or annex of this Agreement bearing that number or letter as the same may be amended or supplemented from time to time;

"Business Day" means any day other than a Saturday, Sunday, Christmas Day, Good Friday or a day which is a bank holiday with the meaning given to that expression in the Banking and Financial Dealings Act 1971;

"Catholic" means in full communion with the See of Rome;

"Control" in relation to a body corporate ('Entity') means either the legal or beneficial ownership of 30 per cent or more of the issued shares in the Entity ordinarily having voting rights or the power of a person ('A') otherwise to secure –

- (a) either by means of the holding of shares in that Entity or having an interest conferring voting rights at general meetings of the membership of the Entity or of any other body corporate;
- (b) by virtue or any powers conferred by the Articles or other document regulating that Entity or any other Entity or partnership including, without limitation, the power to appoint or remove a majority of the directors thereof, or
- (c) by virtue of any agreement, understanding or arrangement between any person or persons

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that the affairs of the first-mentioned Entity are conducted in accordance with the wishes of A and 'Controls' shall be construed accordingly;

"DfE" means Department for Education and any successor;

"Diocesan Bishop" means the Bishop of the Diocese and includes any person, agency or office exercising ordinary jurisdiction in his name;

"Diocese" means the Catholic diocese in which the relevant Academy is situated;

"Early Years Provision" has the same meaning as that given by section 20 of the Childcare Act 2006

"Land" means all and any part of the land (including for the avoidance of doubt all buildings, structures, landscaping and other erections) leased or which is leased in the future to the Company by an LA for use by the Academies established by and under the control of the Company;

"LA" means the Local Authority in the area in which the relevant Academy is situated;

"Mainstream Academy" means an Academy meeting the requirements referred to in clause 12;

"Memorandum" means the memorandum of association of the Company for the time being in force;

"parents" means parents or guardians;

"persons" includes a body of persons, corporate or incorporate;

"Premises" means all and any part of the land (including for the avoidance of doubt all buildings, structures, landscaping and other erections) leased or which is leased in the future to the Company by the Trustees for use by the Academies established by and under the control of the Company;

"Principal" means the head teacher of an Academy;

"Principal Regulator" means the body or person appointed as the Principal Regulator under the Charities Act 2011;

"Property" means the Land and the Premises;

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“Scheme of Delegation” means the Scheme of Delegation for the Academy as provided under the Articles;

references to “school” shall where the context so admits be references to an Academy;

“SEN” means special educational needs, and the expressions “special educational needs” and “special educational provision” have the meaning set out in section 312 of the Education Act 1996;

“SENCO” means Special Educational Needs Co-ordinator;

“Statement of SEN” means a statement made under section 324 of the Education Act 1996;

any reference to a statute or statutory provision shall include any statute or statutory provision which replaces or supersedes such statute or statutory provision including any modification or amendment thereto;

“Supplemental Agreement” means an agreement supplemental to this Agreement, substantially in the form set out in Schedule 1 to this Agreement to be entered into by the Secretary of State and the Company pursuant to which the Company agrees to establish and maintain, and to carry on or provide for the carrying on, and the Secretary of State agrees to fund, an Academy in accordance with the terms and conditions of that Supplemental Agreement and this Agreement;

“Trustees” means the Birmingham Roman Catholic Diocesan Trustees Registered being the body corporate under Part 12 of the Charities Act 2011 for the Trustees of the Birmingham Diocesan Trust registered charity number 234216 of Cathedral House, St Chad’s, Queensway, Birmingham B4 6EX;

- 7) The Interpretation Act 1978 shall apply for the interpretation of this Agreement and any Supplemental Agreement as it applies for the interpretation of an Act of Parliament.
- 8) Expressions defined in this Agreement shall have the same meaning where used in any Annex to this Agreement or Supplemental Agreement.
- 9) Questions arising on the interpretation of the arrangements in this Agreement shall be resolved by the Secretary of State after consultation with the Company

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- 10) Section 1 (3) of the Academies Act 2010 states that -
- (3) An Academy agreement is an agreement between the Secretary of State and the other party under which-
- (a) the other party gives the undertakings in subsection (5), and
- (b) the Secretary of State agrees to make payments to the other party in consideration of those undertakings.”

LEGAL AGREEMENT

- 11) In consideration of the Company undertaking to establish and maintain, and to carry on or provide for the carrying on of a number of schools / independent schools in England meeting the requirements referred to in clause 12 (“**the Mainstream Academies**”), the Secretary of State agrees to make payments to the Company in accordance with the conditions and requirements set out in this Agreement and Supplemental Agreements. If it is agreed between the Secretary of State and the Company that the Company will establish and maintain, and to carry on or provide for the carrying on of an Academy, the parties will enter into a Supplemental Agreement in relation to that Academy. For the avoidance of doubt, any obligations imposed upon or powers given to an Academy by this Agreement or any Supplemental Agreement are also imposed upon the Company.

REQUIREMENTS OF A MAINSTREAM ACADEMY

- 12) The requirements of a **Mainstream Academy** are those set down in section 1A of the Academies Act 2010.¹

12A) Number not used

12B) Number not used

REQUIREMENTS OF A CATHOLIC MULTI ACADEMY

- 12C) In addition to clauses 11, 12A 12B and/or 12A above where applicable, the parties acknowledge that an additional requirement of this Company is that it is a Catholic

¹ Any Supplemental Funding Agreement entered into in relation to an Academy which is a “selective school” within the meaning of Section 6(4) of the Academies Act 2010 will clarify that section 1A(1)(c) (requirement to provide education for pupils of different abilities) will not apply.

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Multi Academy and that each Academy is to be conducted as a Catholic school in furtherance of the Object of the Company set out in the Articles.

CONDITIONS OF GRANT

General

- 13) Other conditions and requirements in respect of an Academy, unless specified otherwise in a Supplemental Agreement, are that:
- a) the school will be at the heart of its community, promoting community cohesion and sharing facilities with other schools and the wider community;
 - b) there will be assessments of pupils' performance as they apply to maintained schools and the opportunity to study for qualifications in accordance with clause 30 (d);
 - c) in respect of **Mainstream Academies**, the admissions policy and arrangements for the school will be in accordance with admissions law, the Diocesan Bishop's model admissions policy from time to time annexed to the Scheme of Delegation to the extent permitted by law, and the DfE Codes of Practice, as they apply to maintained schools;
 - d) teachers' levels of pay and conditions of service for all employees will be the responsibility of the Company;
 - e) there will be an emphasis on the needs of the individual pupils including pupils with SEN, both those with and without statements of SEN;
 - f) there will be no charge to pupils (or their parents or guardians) in respect of admission to, or attendance at the school and the school will only charge pupils where the law allows maintained schools to charge.
 - g) the Company shall as soon as reasonably practicable establish an appropriate mechanism for the receipt and management of donations and shall use reasonable endeavours to procure donations through that mechanism for the purpose of the objects specified in the Articles.
- 13A) Clause 13 f) does not prevent the Company receiving funds from a local authority or a charity in respect of the admission of a pupil with SEN to an Academy.

Governance

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- 14) Each Academy will be governed by the Company. The Company shall have regard to (but for the avoidance of doubt shall not be bound by) any guidance as to the governance of Academies that the Secretary of State may publish.
- 15) The Company shall establish, for each Academy, an Academy Committee under a legally binding Scheme of Delegation in the form attached to the Articles of Association. The role of the Academy Committee and the membership of it shall be set out in the Scheme of Delegation but the Company will, as a minimum, ensure that:
 - a) two parents of pupils at the Academy (to be elected by the parents of registered pupils of the Academy) shall be members of the Academy Committee;
 - b) up to two employees at the Academy (to be elected by employees of the Academy) shall be members of the Academy Committee; and
 - c) any advice of the Academy Committee is brought to the attention of the Directors of the Company.

Conduct

- 16) Each Academy shall be conducted in accordance with:
 - a) the Articles;
 - b) all provisions by or under statute which confer rights or impose obligations on Academies including, without limitation, the independent schools standards prescribed under section 157 of the Education Act 2002 to the extent they apply to the Academy
 - c) the terms of this Agreement and the relevant Supplemental Agreement.

Disclosure and Barring Service Checks

- 17) The Company shall comply with the requirements of the Education (Independent School Standards) (England) Regulations 2010 (or such regulations as may for some time being be applicable) in relation to carrying out enhanced criminal records checks, obtaining enhanced criminal records certificates and making any further checks, as required and appropriate for members of staff, supply staff, individual Directors and Academy Representatives.

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- 17A) The Company shall, on receipt of a copy of an enhanced criminal record certificate, on request from the Secretary of State or his agents, as soon as possible thereafter submit information contained in the certificate to the Secretary of State in accordance with section 124 of the Police Act 1997.

Pupils

- 18) Each **Mainstream Academy** will be an all ability inclusive² school whose requirements for:
- a) the admission of pupils to the Academy are set out in the relevant annex to the Supplemental Agreement;
 - b) the admission to the Academy of and support for pupils with SEN and with disabilities (for pupils who have and who do not have statements of SEN) are set out in Annex B to this Agreement;
 - c) pupil exclusions are set out in regulations made by virtue of section 51A of the Education Act 2002.

Designated Teacher for Looked after Children

- 18A) The Company will in respect of each Academy act in accordance with, and be bound by, all relevant statutory and regulatory provisions and have regard to any guidance and codes of practice issued pursuant to such provisions, as they apply at any time to a maintained school, relating to the designation of a person to manage the teaching and learning programme for children who are looked after by a LA and are registered pupils at the school. For the purpose of this clause, any reference to the governing body of a maintained school in such statutory and regulatory provisions, or in any guidance and code of practice issued pursuant to such provisions, shall be deemed to be references to the Directors of the Company.

Teachers and other staff

- 19) In respect of **Mainstream Academies**:

² If one of the Mainstream Academies is a "selective school" within the meaning of Section 6(4) of the Academies Act 2010 then the Supplemental Funding Agreement for that Academy will provide that that Academy is not required to be an all ability inclusive school.

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- a) subject to clause 19 b), the Company shall, in accordance with any guidance which the Secretary of State may issue on the qualifications of teaching and other staff in Academies, employ anyone it deems is suitably qualified or is otherwise eligible under a contract of employment or for services to carry out planning and preparing lessons and courses for pupils, delivering lessons to pupils, assessing the development, progress and attainment of pupils, and reporting on the development, progress and attainment of pupils. The Company shall also follow any guidance which the Diocesan Bishop may issue on the qualifications of teaching and other staff as a policy pursuant to the Scheme of Delegation but in the event of any conflict the guidance issued by the Secretary of State shall take precedence over that conflicting provision in the guidance issued by the Diocesan Bishop.
- b) clause 19 a) does not apply to anyone who:
 - i) is appointed as the SENCO by the Company under section 317(3A) of the Education Act 1996, who must meet the requirements set out in Regulation 3 of the Education (Special Educational Needs Co-ordinators) (England) Regulations 2008 (SI 2008/2945); or
 - ii) is appointed as a designated teacher for looked after children further to clause 18A.
- 20) Number not used
- 21) The Company shall ensure that all teachers employed at each Academy have access to the Teachers' Pension Scheme and, in so doing, will comply with the statutory provisions underlying the scheme.
- 22) The Company shall ensure that all employees at each Academy other than teachers have access to the Local Government Pension Scheme in accordance with the Local Government Pension Scheme (Administration) Regulations 2008 (SI 2008/239) (or such other regulations as may for the time being be applicable).
- 22A) Where a teacher employed at an Academy applies for a teaching post at another Academy, 16 to 19 Academy, maintained school, school maintained by a local authority or institution within the further education sector, the Company must at the request of the governing body or directors of the academy company of that other educational institution:

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- a) advise in writing whether or not, in the preceding two years, there has been any formal consideration of that teacher's capability to perform their role at the Academy, or the school the Academy replaced; and
- b) provide written details of the concerns which gave rise to any such consideration of that teacher's capability, the duration of the proceedings and their outcome.

Curriculum, curriculum development and delivery and RE and collective worship

23) The curriculum provided by each Academy to pupils up to the age of 16 shall be broad and balanced.

23A) Number not used

23B) The Company shall publish information in relation to the current curriculum provision at each Academy. Such information shall include details relating to:

- a) the content of the curriculum;
- b) its approach to the curriculum;
- c) the GCSE options (and other Key Stage 4 qualifications) or other future qualifications, as specified by the Secretary of State, offered by each Academy;
- d) the names of any phonics or reading schemes in operation for Key Stage 1; and
- e) how parents (including prospective parents) can obtain further information in relation to the curriculum at each Academy.

23C) Subject to the requirements of clauses 23, 23B and 24 to 29A, the curriculum will be the responsibility of the Company.

24) In respect of **Mainstream Academies**, the Company shall ensure that the broad and balanced curriculum includes English, mathematics and science.

24A) Sections 42A (provision of careers guidance) and 45A (guidance as to discharge of duties) of the Education Act 1997 shall be deemed to apply to each Academy with the following modifications:

- a) each Academy shall be treated as falling within the meaning of "a school" under section 42A (2);

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- b) the Company shall be deemed to be the “responsible authorities” for the purposes of subsection 42A(3); and
 - c) references to registered pupils shall be treated as references to registered pupils at each Academy.
- 25) The Company shall make provision for the teaching of religious education and for a daily act of collective worship at each **Mainstream Academy**.
- 26) Each **Mainstream Academy** is designated with a Catholic religious character in accordance with section 124B of the School Standards and Framework Act 1998 or further to section 6(8) of the Academies Act 2010 and in consequence:
- a) subject to clause 28, and paragraph 4 of Schedule 19 to the School Standards and Framework Act 1998 which shall apply as if the Academies were voluntary aided schools each with a religious character, the Company shall ensure that provision is made for religious education to be given to all pupils at the Academies in accordance with the tenets of the Catholic religion;
 - b) subject to clause 28, the Company shall comply with the requirements of section 70(1) of, and Schedule 20 to, the School Standards and Framework Act 1998 as if each Academy was a foundation school with a religious character or a voluntary school, and as if references to ‘the required collective worship’ were references to collective worship in accordance with the tenets and practices of the Catholic religion;
 - c) the Company shall ensure that the quality of religious education given to pupils at each Academy and the contents of each Academy’s collective worship given in accordance with the tenets and practice of the Catholic religion are inspected. Such inspections shall be conducted by a person chosen by the Company in consultation with the Diocesan Bishop and each Academy shall secure that such inspection shall comply with the requirements set out in any statutory provision and regulations as if the Academy were a foundation or voluntary school which has been designated under section 69(3) of the School Standards and Framework Act 1998 as having a Catholic religious character.
- 27) Number not used
- 28) Section 71(1) – (6) and (8) of the School Standards and Framework Act 1998 shall apply as if each Academy were a community, foundation or voluntary school, and as if references to “religious education” and to “religious worship” in that section were

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references to the religious education and religious worship provided by each Academy in accordance with clause 26 above.

- 29) The Company shall have regard to any guidance issued by the Secretary of State further to section 403 of the Education Act 1996 on sex and relationship education to ensure that children at each Academy are protected from inappropriate teaching materials and they learn the nature of marriage and its importance for family life and for bringing up children. The Company shall also have regard to the requirements set out in section 405 of the Education Act 1996 which shall apply to each Academy as if it were a maintained school.
- 29A) The Company agrees to act in accordance with sections 406 (Political Indoctrination) and 407 (Duty to secure balance treatment of political issues) of the Education Act 1996 as if it were a maintained school, subject to the following modifications:
- a) references to any maintained school shall be treated as references to each Academy;
 - b) references to registered pupils shall be treated as references to registered pupils at each Academy;
 - c) references to the governing body or the local authority shall, in each case, be treated as references to the Company; and
 - d) references to the head teacher shall, in each case, be treated as references to the Principal of each Academy.³

Assessment

- 30) The Secretary of State will notify the appropriate body for assessment purposes about each Academy.
- a) The Company shall ensure that each **Mainstream Academy** complies with any guidance issued by the Secretary of State from time to time to ensure that pupils take part in assessments and in teacher assessments of pupils' performance as they apply to maintained schools.

³ Please also see the Charity Commission guidance (CC9): "Speaking out: Guidance on Campaigning and Political Activities by Charities" <http://www.charity-commission.gov.uk/Publications/cc9.aspx>

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- b) The Company shall report to any body on assessments under clause 30 as the Secretary of State shall require and shall provide such information as may be required by that body as applies to maintained schools.
- c) In respect of all Key Stages, the Company will submit each Academy to monitoring and moderation of its assessment arrangements as required by the Secretary of State.
- d) In relation to courses of education or training at an Academy which are funded from its GAG, the Company may offer:
 - i) any course of education or training which leads to a qualification that is approved by the Secretary of State for the purposes of section 96 of the Learning and Skills Act 2000; and
 - ii) any course of education or training not falling within paragraph i) if the Secretary of State gives his specific written approval for it.

30A) Subject to clause 30B, the Company shall ensure that the following information is published on the website for each **Mainstream Academy**:

- a) **[If Applicable]** The school's most recent Key Stage 2 results as published by the Secretary of State under the following column headings in the School Performance Tables published on the Department for Education's website:
 - i) "% achieving Level 4 or above in English and maths";
 - ii) "% making expected progress";
 - iii) in relation to English, "% achieving Level 5 or above"; and
 - iv) in relation to maths, "% achieving Level 5 or above".
- b) **[If Applicable]** The school's most recent Key Stage 4 results as published by the Secretary of State under the following column headings in the School Performance Tables published on the Department for Education's website:
 - i) "% achieving 5 + A* - C GCSEs (or equivalent) including English and maths GCSEs";
 - ii) "% achieving the English Baccalaureate"; and

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- iii) "% of pupils making expected progress".
 - c) Information as to where and by what means the most recent report about the school published by the Chief Inspector may be accessed.
 - d) Information as to where and by what means the School Performance Tables published by the Secretary of State on the Department for Education's website may be accessed.
- 30B) There is no requirement to publish information under clause 30A if to do so would be in breach of the Company's obligations under the Data Protection Act 1998.
- 30C) Subject to clause 30B, the Company shall ensure that a copy of all information referred to in clause 30A is issued to the Diocesan Bishop.

Exclusions Agreement

- 31) In respect of **Mainstream Academies**, the Company shall, if invited to do so by an LA, enter into an agreement in respect of an Academy with that LA, which has the effect that where:
- a) the Company admits a pupil to that Academy who has been permanently excluded from a maintained school, that Academy itself or another academy with whom the LA has a similar agreement; or
 - b) the Company permanently excludes a pupil from that Academy;

payment will flow between the Company and the LA in the same direction and for the same amount that it would, were that Academy a maintained school, under Regulations made under section 47 of the School Standards and Framework Act 1998 relating to the addition or deduction of a maintained school's budget following a permanent exclusion or the admission of a permanently excluded pupil. At the date of this Agreement, the applicable Regulation is Regulation 23 of the School and Early Years Finance (England) Regulations 2012.

School Meals

- 32) The Company shall, if requested to do so by or on behalf of any pupils at any Academy, provide school lunches for those pupils unless it would be unreasonable for it to do so. Subject to the provisions of clause 33 charges may be levied for

lunches, but the Company shall otherwise fund the cost of such school lunches from its GAG for **Mainstream Academies**.

- 33) In relation to a pupil who is himself or whose parents are in receipt of benefits mentioned in section 512ZB of the Education Act 1996 (or equivalent provision governing the entitlement to free school lunches of pupils at maintained schools), the Company shall ensure that a school lunch is provided for such a pupil free of charge to be funded by the Company.

Charging

- 34) Sections 402 (obligation to enter pupils for public examinations), 450 - 457 (charges), 459 (regulations about information about charges and school hours), 460 (voluntary contributions), 461 (recovery of sums as civil debt) and 462 (interpretation re charges) of the Education Act 1996 (including, for the avoidance of doubt, any secondary legislation made further to those provisions) shall be deemed to apply to each Academy with the following modifications:
- a) references to any maintained school shall be treated as references to an Academy;
 - b) references to registered pupils shall be treated as references to registered pupils at an Academy;
 - c) references to the governing body or the local authority shall, in each case, be treated as references to the Company;
 - d) the Company may charge persons who are not registered pupils at an Academy for education provided or for facilities used by them at that Academy;
 - e) The Company may charge registered pupils at an Academy for Early Years Provision provided in excess of the provision funded by the LA in accordance with its duty under section 7 of the Childcare Act 2006.

International Education Surveys

- 34A) Section 538A of the Education Act 1996 (power to direct participation in international surveys) shall be deemed to apply to each Academy with the following modifications:
- a) references to the governing body shall be treated as references to the Company; and

- b) references to a community, foundation or voluntary school shall be treated as references to the Academy.

Pupil Premium

- 34B) For **Mainstream Academies** that receive Pupil Premium Funding,⁴ the Company shall publish in each Academy Financial Year information in relation to:
- a) the amount of Pupil Premium allocation that it will receive during the Academy Financial Year;
 - b) on what it intends to spend the Pupil Premium allocation;
 - c) on what it spent its Pupil Premium in the previous Academy Financial Year;
 - d) the impact in educational attainment, arising from expenditure of the previous Academy Financial Year's Pupil Premium.

DURATION OF SCHOOL DAY AND YEAR

- 34C) In respect of **Mainstream Academies**, the duration of the school day and year will be the responsibility of the Company.

GRANTS TO BE PAID BY THE SECRETARY OF STATE

General

- 35) The Secretary of State shall pay grants towards Recurrent Expenditure and may pay grants towards Capital Expenditure for each Academy. Except with the Secretary of State's prior agreement, the Company shall not budget for its expenditure in any Academy Financial Year in excess of expected income (subject to clause 80). The Company shall not enter into commitments which are likely to have substantial implications for future levels of grant, or for the period for which grant may be required. No decision by the Company shall commit the Secretary of State to paying any particular amount of grant.

⁴ The Pupil Premium is additional funding for schools to support pupils from low-income families. In instances when those pupils are in special settings, the funding can either be allocated to the setting where they are being educated, or held by the Local Authority to spend specifically on additional educational support to raise the standard of attainment for these pupils. The Local Authority must consult non-mainstream settings about how the Premium for these pupils should be used.

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- 35A) Grants paid by the Secretary of State (be they GAG, EAG or Capital Grant) shall not be used by the Company for Early Years provision for which a Company is entitled to make a charge under clause 34(e) of this Agreement without the prior written consent of the Secretary of State except where the use of such funds is merely incidental to their use for the establishment and maintenance, carrying on or providing for the carrying on of an Academy.
- 36) "Recurrent Expenditure" means any expenditure on the establishment, conduct, administration and maintenance of the Academy which does not fall within the categories of capital expenditure set out at clause 37. The Secretary of State shall pay two separate and distinct grants in respect of recurrent expenditure: General Annual Grant ("GAG") and Earmarked Annual Grant ("EAG").

Capital Grant

- 37) "Capital Expenditure" means expenditure on:
- a) the acquisition of land and buildings;
 - b) the erection, enlargement, improvement or demolition of any building including fixed plant, installation, wall, fence or other structure, or any playground or hard standing;
 - c) the installation of electrical, mechanical or other services other than necessary replacements, repairs and maintenance due to normal wear and tear;
 - d) the purchase of vehicles and other self-propelled mechanical equipment;
 - e) the installation and equipping of premises with furnishings and equipment, other than necessary replacements, repairs and maintenance due to normal wear and tear;
 - f) the installation and equipping of premises with computers, networking for computers, operating software and information and communication technology equipment, other than necessary updates or necessary replacements, repairs and maintenance due to normal wear and tear;
 - g) the provision and equipping of premises, including playing fields and other facilities for social activities and physical recreation other than necessary replacements, repairs and maintenance due to normal wear and tear;
 - h) works of a permanent character other than the purchase or replacement of minor day-to-day items;

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- i) any major repairs or replacements which are specified as constituting capital expenditure in any grant letter relating to them;
- j) such other items (whether of a like or dissimilar nature to any of the foregoing) of a substantial or enduring nature as the Secretary of State may agree shall constitute capital expenditure for the purposes of this Agreement;
- k) all professional fees properly and reasonably incurred in connection with the provision of any of the above;
- l) VAT and other taxes payable on any of the above.

“Capital Grant” means grant paid to the Company in respect of Capital Expenditure.

- 38) Where an Academy is to open in new premises, or where existing premises are to be substantially refurbished or remodelled to enable the Academy to open in such premises, the Secretary of State, may, in his absolute discretion be responsible for meeting the incurred Capital Expenditure for that Academy. To that end, the Secretary of State will consider providing funding in accordance with any arrangements as he considers appropriate.
- 38A) The parties acknowledge that while and to the extent an Academy operates from Property or any part of it pursuant to a lease with a third party (without limitation the Trustees and/or the LA) that in respect of the occupation of and use of that Property or any part of it the terms of the relevant lease shall prevail over any provisions in this Agreement.
- 39) Any Capital Expenditure incurred in respect of each Academy on which Capital Grant payments are sought from the Secretary of State will require the specific prior written agreement of the Secretary of State, which agreement shall not be unreasonably withheld or delayed.
- 40) Any payment of Capital Grant to the Company under this Agreement is subject to the fulfilment of the following conditions:
 - a) such grants are used solely to defray expenditure approved by the Secretary of State;

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- a) the Company certifying and providing evidence that all planning and other consents necessary for the development and all related infrastructure to be completed have been obtained or put in place:
 - b) Any other conditions that the Secretary of State may specify; and
 - c) the Company procuring the written consent of the Trustees in any event, and the LA where applicable, to any proposed works at the Property for which Capital Grant is requested or to the acquisition of any land and/or buildings.
- 40A) In recognition of the Trustees' interest in all Premises and the possible effect of Capital Grant paid by the Secretary of State in relation to Capital Expenditure on such Premises, the Secretary of State commits to the following:
- a) to acknowledging the Trustees' right to consent or to withhold its consent (acting reasonably) to the carrying out of any works to Premises which are to be paid for from any Capital Grant and/or the acquisition of any land to be used by an Academy;
 - b) to recognise the Trustees' interest in ensuring that any works to Premises are carried out properly; and
 - c) to acknowledge and take full account of any financial contribution that any third party, such as the Trustees, agrees to make or that the Company makes to the cost of such works other than through Capital Grant.
- 40B) In the event that the Company wishes to acquire any interest in land for the purposes of an Academy, the parties agree that the Trustees shall be given reasonable notice of the same by the Company together with a copy of all relevant information which the Company has gathered about the land and its acquisition, including (without limitation) the likely purchase price, the amount of Capital Grant which the Company has applied or intends to apply to the Secretary of State to pay in respect of such acquisition and any conditions which the Secretary of State may have indicated he is minded to specify in respect of such Capital Grant and/or the land and the Trustees shall be afforded the opportunity to acquire such interest. In such circumstances:
- a) where the Trustees notify the Company that they agree to acquire the land for the purposes of the Academy any Capital Grant paid to the Company for the purposes

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of such acquisition shall be paid to the Trustees by the Company or as the Trustees direct to be used solely for the purpose of such acquisition; and

- b) following such acquisition the Trustees shall grant a lease to the Company on the same terms (*mutatis mutandis*) as the existing lease between the Company and the Trustees and, where possible, with a co-terminus expiry date and until the Trustees either acquire or notify the Company and the Secretary of State that they do not wish to acquire such land the Company shall not proceed with such acquisition.
- c) The parties acknowledge and agree that any interest in land acquired by the Trustees wholly or partly as a result of payments of Capital Grant made by the Secretary of State to the Company, and which are then paid to the Trustees, or paid as the Trustees direct, shall be considered to be land that has been acquired or enhanced in value wholly or partly by payments made by or on behalf of the Secretary of State for the purposes of Schedule 1 to the Academies Act 2010.

Arrangements for Payment of Capital Grant

- 41) Capital Grant will be paid by the Secretary of State to the Company on the basis of claims for grant submitted to the Secretary of State in the notified format with supporting invoices and certificates as required by the Secretary of State. If a dispute arises as to whether a claim is or is not acceptable both parties undertake to attempt to resolve it in good faith. In the event of such a dispute, the Secretary of State shall pay to the Company so much of the claim as shall not be in dispute.

General Annual Grant

- 41A) GAG paid by the Secretary of State in respect of an Academy shall only be spent by the Company towards the normal running costs of the Academies.
- 42) Clauses 42A to 53 apply in respect of **Mainstream Academies** only.
- 42A) GAG will be paid by the Secretary of State to the Company in order to cover the normal running costs of each **Mainstream Academy**. These will include, but are not limited to:
 - a) teachers' salaries and related costs (including full and part time teaching staff and seconded teachers);

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- b) non-teaching staff salaries and related costs (including pension contributions, educational support staff, administrative and clerical staff and manual and premises related staff);
 - c) employees' expenses;
 - d) the purchase, maintenance, repair and replacement:
 - (i) of teaching and learning materials and other educational equipment, including books, stationery and ICT equipment and software, sports equipment and laboratory equipment and materials;
 - (ii) of other supplies and services;
 - e) examination fees;
 - f) repairs, servicing and maintenance of buildings (including redecoration, heating, plumbing, lighting etc); maintenance of grounds (including boundary fences and walls); cleaning materials and contract cleaning; water and sewage; fuel and light (including fuel oil, solid and other fuel, electricity and gas); rents; rates; purchase, maintenance, repairs and replacement of furniture and fittings;
 - g) insurance;
 - h) medical equipment and supplies;
 - i) staff development (including in-service training);
 - j) curriculum development;
 - k) the costs of providing school meals for pupils (including the cost of providing free school meals to pupils who are eligible to receive them), and discretionary grants to pupils to meet the cost of pupil support, including support for pupils with SEN or disabilities (taking account of the fact that separate additional money will be available for pupils with Statements of SEN);
 - l) administration;
 - m) establishment expenses and other institutional costs.
- 43) Subject to clauses to 51-52, GAG for each Academy Financial Year for each **Mainstream Academy** will include:

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- a) funding equivalent to that which would be received by a maintained school with similar characteristics, determined by the Secretary of State and notified in the Annual Letter of Funding or its equivalent, taking account of the number of pupils at each Academy; and
 - b) funding in respect of functions which would be carried out by the LA if each Academy was a maintained school.
- 44) The GAG for each Academy Financial Year for each **Mainstream Academy** will also include, payable on a basis equivalent to that applied to maintained schools:
- a) funding for matters for which it is necessary for that Academy to incur extra costs, for as long as those costs are deemed necessary by the Secretary of State; and
 - b) payments in respect of further, specific grants made available to maintained schools, where the relevant Academy meets the requisite conditions and criteria necessary for a maintained school to receive these grants, such payments to be at the discretion of the Secretary of State.
- 45) Subject to clause 47, the basis of the pupil number count for the purposes of determining GAG for the Academy Financial Year in which a **Mainstream Academy** opens shall be the same basis as that used by the LA for determining the budget share of the predecessor maintained school as adjusted by numbers counted in any subsequent Schools Census, as determined by the Secretary of State.
- 46) Subject to clause 47, the basis of the pupil number count for the purpose of determining GAG for a Mainstream Academy for Academy Financial Years after the Academy Financial Year in which the Academy opens will be:
- a) for the pupil number count for pupils in Year 11 and below, the Schools Census which is used to fund maintained schools for the financial year overlapping with the Academy Financial Year in question; and
 - b) for the pupil number count for pupils in Year 12 and above, the formula which for the time being is in use for maintained schools for the calculation of pupil numbers for pupils in Year 12 and above for the purpose of calculating their level of funding.
- 47) Where either of the following conditions applies in respect of an Academy Financial Year, the basis of the pupil count shall be determined by the Secretary of State,

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taking account of any diseconomies of scale that the Academy will be under as a result of such condition(s) applying. The conditions are:

- a) not all planned Year-groups will be present at the Academy (that is, not all the pupil cohorts relevant to the age-range of the Academy will have some pupils present); or
 - b) the total number of pupils as measured in the Schools Census which is used to fund maintained schools for the financial year overlapping with the Academy Financial Year in question is less than 90% of the planned final size of the Academy, as specified in the Academy's Supplemental Agreement, and has not at any previous time been 90% or more of that number.
- 48) For any Academy Financial Year in which GAG for a **Mainstream Academy** has been calculated in accordance with clause 45, no adjustment shall be made to the following Academy Financial Year's formula funding element of GAG for that Academy to recognise variation from the pupil count basis used.
- 49) For any Academy Financial Year in which GAG for a **Mainstream Academy** is calculated in accordance with clause 46, no adjustment will be made to the formula funding element in the following Academy Financial Year's formula funding element of GAG unless the Company demonstrates to the satisfaction of the Secretary of State that there has been a significant impact on balances. For any other element of GAG the Secretary of State may make adjustments to recognise a variation in pupil numbers from that used to calculate the element of grant in question; the basis of these will be set out in the Annual Letter of Funding in respect of the Relevant Academy.
- 50) 50) The Secretary of State recognises that:
- a) in relation to **Mainstream Academies** which open with intakes representing only a proportion of the final planned size of the Academy, payments based simply upon the number of pupils present are unlikely to be sufficient to meet that Academy's needs in the Academy Financial Years before all age groups are present at their planned size (the "Start-up Period") because of a lack of economies of scale. The Secretary of State may pay an appropriately larger GAG in the Start-up Period than would be

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justified solely on the basis of the methods set out in clauses 43-49, in order to enable the Academy to operate effectively⁵;

- b) in relation to **Mainstream Academies** which open with pupils transferred from one or more maintained schools which have closed, additional GAG resources may be required to take account of transitional costs including any costs associated with supporting the integration of pupils from the closed schools and, where necessary, to offer a dual curriculum. If the Secretary of State has indicated that such additional GAG will be payable, the Company will make a bid for this addition to GAG based upon need and providing appropriate supporting evidence.
- 51) During the Start-up Period or during the period when year groups are present who have transferred from a predecessor school or schools, the Secretary of State will pay a further element of GAG additional to that calculated in accordance with the methods set out in clauses 43-49 to allow the relevant **Mainstream Academy** to:
- a) purchase a basic stock of teaching and learning materials (including library books, text books, software, stationery, science equipment and equipment for physical education) and other consumable materials; and
- b) meet the costs associated with the recruitment and induction of additional teaching and other staff.

After the Start-up Period these costs will be met through the ordinary GAG.

- 52) The Secretary of State recognises that if he serves notice of intention to terminate a Supplemental Agreement in respect of an Academy the intake of new pupils during the notice period is likely to decline and that in such circumstances payments based simply upon the number of pupils attending the relevant **Mainstream Academy** are unlikely to be sufficient to meet that Academy's needs during the notice period. The Secretary of State undertakes to pay a reasonable and appropriately larger GAG with respect to that Academy in the notice period than would be justified solely on the basis of the methods set out in clauses 43-49, in order to enable the Academy to operate effectively.

- 53) The Secretary of State also recognises that if this Agreement or a Supplemental Agreement is terminated for any reason by either party the number of pupils at the

⁵ Note that a larger GAG for the Start-Up Period is not applicable to schools applying to convert further to the Academies Act 2010.

relevant **Mainstream Academy or Mainstream Academies** is likely to decline. In these circumstances both parties undertake to attempt to resolve issues arising from such termination in good faith and with the aim of protecting the interests and the education of the pupils at the Academy or Academies.

- 54) Number not used.

Earmarked Annual Grant

- 55) Earmarked Annual Grant ("EAG") may be paid by the Secretary of State to the Company in respect of either Recurrent Expenditure or Capital Expenditure for such specific purposes as may from time to time be agreed between the Secretary of State and the Company and described in the Annual Letter of Funding for that Academy provided that where the EAG relates to Capital Expenditure the Trustees and/or the LA where applicable, give their consent in advance to such purposes in writing. The Company shall only spend EAG in accordance with the scope, terms and conditions of the grant set out in the relevant Annual Letter of Funding.
- 56) Where the Company is seeking a specific EAG in relation to any Academy Financial Year, it shall submit a letter outlining its proposals and the reasons for its request to the DfE accompanied by the Trustees' and/or 'the LA's written consent to the specific purpose for which any Capital Expenditure element of the EAG is proposed.

Arrangements for Payment of GAG and EAG

- 57) The Secretary of State shall notify the Company at a date preceding the start of each Academy Financial Year of the GAG and EAG figures in respect of each Academy which, subject to Parliamentary approval, the Secretary of State plans for that Academy Financial Year and of the assumptions and figures on which these are based.
- 58) If GAG or EAG is calculated incorrectly due to a mistake of the Secretary of State then:
- a) if this leads to an underpayment of GAG, the Secretary of State will correct the underpayment in subsequent Academy Financial Years;
 - b) if this leads to an overpayment of GAG, the Secretary of State reserves the right to recover any overpaid grant in subsequent Academy Financial Years, as appropriate,

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having considered all the relevant circumstances and taking into account any representations from the Company.

- 59) If GAG or EAG is calculated incorrectly because the Company provides incorrect information to the Secretary of State then;
- a) if this leads to an underpayment of GAG, the Secretary of State may correct the underpayment in subsequent Academy Financial Years;
 - b) if this leads to an overpayment of GAG, the Secretary of State reserves the right to recover any overpaid grant in subsequent Academy Financial Years, as appropriate, having considered all the relevant circumstances and taking into account any representations from the Company.
- 60) The amounts of GAG for an Academy Financial Year will be determined annually by the Secretary of State. The amount of GAG for each Academy for the initial Academy Financial Year will be notified to the Company in a funding letter at a date preceding that year. For subsequent years the amount of GAG for each Academy will be notified to the Company in a funding letter preceding that Academy Financial Year (the "Annual Letter of Funding"). The Annual Letter of Funding for each Academy will not include the amount that the Company will receive in respect of grants for which information to enable timely calculation is not available or is incomplete, such grants will be notified as soon as practicable later in the year. Amounts of EAG for each Academy will be notified to the Company wherever possible in the relevant Academy's Annual Letter of Funding or as soon as practicable thereafter.
- 61) The Secretary of State undertakes to pay GAG for each Academy in monthly instalments on or before the twenty fifth day of each month, each such instalment to fund the salaries and other payroll costs for the relevant month of all monthly paid employees and all other costs payable during the next following month. The detailed arrangements for payment will be set out in each Academy's Annual Letter of Funding.

Other relevant funding

- 62)⁶ Number not used
- 63) The Secretary of State may pay all or part of the costs incurred by the Company in connection with the transfer of employees from any predecessor school under the Transfer of Undertakings (Protection of Employment) Regulations 2006. Payment of grant in respect of such costs is to be agreed on a case by case basis and the Company shall not budget on the basis that it will receive any grant in respect of such costs unless it is specifically notified that such grant will be paid. However, the Secretary of State shall act fairly and reasonably in determining what (if any) costs will be paid by way of grant, taking into account all the circumstances, including the necessity of incurring such costs as a result of the predecessor schools converting to the multi academy Company.
- 64) The Company may also receive funding from a LA in respect of the provision detailed in statements of SEN for pupils attending an Academy in accordance with the provisions of section 483A of the Education Act 1996 and regulations made under that section. The Company shall ensure that all provision detailed in statements of SEN is provided for such pupils.
- 65) Number not used
- 65A) The Secretary of State shall meet the costs of any relevant statutory denominational inspection at any Academy requested by the Company pursuant to clause 26C of this Agreement and notified by the Company to the Secretary of State provided these do not occur in relation to that Academy more often than once every three years.

FINANCIAL AND ACCOUNTING REQUIREMENTS

General

- 66) The Company shall appoint an Accounting Officer and shall notify the Secretary of State of that appointment.
- 67) In relation to the use of grant paid to the Company by the Secretary of State, the Company shall abide by the requirements of and have regard to the guidance in the

⁶ NOTE. For **Mainstream Academies** with approved Academy Action Plans see appropriate wording to be included as set out in Section B of the Appendix below.

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Academies Financial Handbook published by the DfE and amended from time to time and as modified to take account of the fact that the Company manages more than one Academy, which sets out in detail provisions for the financial management of each Academy including guidance on financial systems and controls and accounting and reporting requirements, in so far as these are not inconsistent with any accounting and reporting requirements and guidance that it may be subject to by virtue of its being a charity.

- 67A) The Company shall abide by the requirements of the current 16 to 19 Funding Guidance published by the Secretary of State and as amended from time to time, or such other guidance on 16 to 19 funding issued by the Secretary of State as may from time to time be applicable, in respect of any of its provision for persons who are above compulsory school age until the academic year in which they reach the age of 19.
- 68) The formal budget plan must be approved each Academy Financial Year by the Directors of the Company.
- 69) Any payment of grant by the Secretary of State in respect of each Academy is subject to his being satisfied as to the fulfilment by the Company of the following conditions:
- a) in its conduct and operation it shall apply financial and other controls which conform to the requirements both of propriety and of good financial management;
 - b) arrangements have been made to maintain proper accounting records and that statements of income and expenditure and balance sheets may be produced in such form and frequency as the Secretary of State may from time to time reasonably direct;
 - c) in addition to the obligation to fulfil the statutory requirements referred to in sub-clause f) below, the Company shall prepare its financial statements, Directors' report, Annual Report, Annual Accounts and its Annual Return for each Academy Financial Year in accordance with the Statements of Recommended Practice as issued by the Charity Commission and updated from time to time as if the Company was a non-exempt Charity and/or in such form or manner and by such date as the Secretary of State may reasonably direct and shall file these with the Secretary of State and the Principal Regulator before the 31st December of each Academy Financial Year;

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- d) a statement of the accounting policies used should be sent to the Secretary of State with the financial statements and should carry an audit report stating that, in the opinion of the auditors, the statements show a true and fair view of the Company's affairs and that the grants were used for the purposes intended;
 - e) the Company shall ensure that its accounts are audited annually by independent auditors appointed under arrangements approved by the Secretary of State;
 - f) the Company prepares and files with the Companies Registry such annual accounts as are required by the Companies Act 2006;
 - g) the Company shall publish on its website its Annual Accounts, Annual Report, Memorandum, Articles, Funding Agreement and a list of the names of the Directors of the Company; and
 - h) the Company insures or procures insurance by another person of its assets in accordance with normal commercial practice or under the terms of any subsisting leases in respect of the leasehold interest of the Property upon which each Academy is situated.
- 70) In addition, and at his expense, the Secretary of State may instruct auditors to report to him on the adequacy and effectiveness of the accounting systems and internal controls maintained by the Company to standards determined by the Secretary of State and to make recommendations for improving the financial management of the Company.
- 71) The books of accounts and all relevant records, files and reports of the Company including those relating to financial controls, shall be open at all reasonable times to officials of the DfE and the National Audit Office and to contractors retained by the DfE or the National Audit Office for inspection or the carrying out of value for money studies; and the Company shall secure that those officials and contractors are given reasonable assistance with their enquiries. For the purposes of this clause 'relevant' means in any way relevant to the provision and use of grants provided by the Secretary of State under this Agreement.
- 72) The Company shall submit information in relation to the finances of each Academy to the Secretary of State in accordance with the requirements of the Academies Financial Handbook as amended from time to time, or as otherwise specified from time to time by the Secretary of State.

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- 73) At the beginning of any Academy Financial Year the Company may hold unspent GAG for any Academy from previous Academy Financial Years amounting to such percentage (if any) as for the time being is specified in the Academies Financial Handbook, or otherwise as the Secretary of State may specify by notice in writing to the Company prior to the beginning of that Academy Financial Year of the total GAG payable for the Academy in the Academy Financial Year just ended or such higher amount as may from time to time be agreed. The Company shall use such carried forward amount for such purpose, or subject to such restriction on its use, as for the time being is specified in the Academies Financial Handbook, or otherwise as the Secretary of State may specify by notice in writing to the Company.
- 74) Notwithstanding clause 73, any additional grant provided over and above that set out in clauses 43-49 in relation to **Mainstream Academies** and made in accordance with clauses 50-52 may be carried forward without limitation or deduction until the Start-up Period or the circumstances set out in clause 52 come to an end.
- 75) Any unspent GAG not allowed to be carried forward under clauses 73-74 may be taken into account in the payment of subsequent grant.
- 75A) GAG paid by the Secretary of State shall only be used by the Company in accordance with the Company's Objects and for the educational charitable purpose of advancing for the public benefit education in the United Kingdom, in particular but without prejudice to the generality of the foregoing by establishing, maintaining, carrying on, managing and developing Catholic Academies offering a broad and balanced curriculum. Such funds shall not be used by the Company for any other charitable purpose without the prior written consent of the Secretary of State, except where the use of such funds for that charitable purpose is merely incidental to their use for the educational charitable purpose of advancing for the public benefit education in the United Kingdom.
- 76) The Company may also spend or accumulate funds from private sources or public sources other than grants from the Secretary of State for application to the benefit of an Academy as it sees fit. Any surplus arising from private sources or public sources other than grants from the Secretary of State shall be separately identified in the Company's balance sheet.
- 77) None of the actions listed below shall be taken by the Company in relation to assets or property funded (whether in whole or in part) by the Secretary of State or

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otherwise coming within the meaning of publicly funded land as defined by paragraph 22(3) of Schedule 1 to the Academies Act 2010, without the prior written consent of the Secretary of State and/or of the Trustees, granted or not as the case may be, in accordance with clauses 78, 78A and 78B. The actions referred to are:

- a) except such as are given in normal contractual relations, give any guarantees, indemnities or letters of comfort;
- b) write off any debts or liabilities owed to it, nor offer to make any ex gratia payments (such as staff severance or compensation payments);
- c) make any sale or purchase of or otherwise dispose of freehold or leasehold property including entering into a contract to dispose of or acquire land or granting or entering into an option to acquire an interest in property; or
- d) grant or take up any leasehold or tenancy agreement provided that the consent of the Secretary of State shall not be required for a leasehold or tenancy agreement for a term of three years or less.

78) The Company shall provide 30 days prior written notice to the Secretary of State and to the Trustees, whether or not the circumstances require the Secretary of State's consent, of its intention to:

- a) give any guarantees, indemnities or letters of comfort;
- b) write off any debts owed to it or offer to make any ex gratia payments;
- c) make any sale or purchase of or otherwise dispose of freehold or leasehold property including entering into a contract to dispose of property or granting an option to acquire an interest in property; or
- d) take up any leasehold or tenancy agreement for a term exceeding three years.

78A) Where the Company proposes to carry out any of the actions referred to in clauses 77 and/or 81 and/or where the proposed action relates to any land owned or leased by the Company or proposed to be owned or leased by the Company, the action proposed is deemed to be permitted by the Secretary of State and the Secretary of State's consent is deemed to be given pursuant to clause 77 where:

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- a) the transaction value is below the value for the time being specified in the Academies Financial Handbook; or in a notice in writing issued by the Secretary of State to the Company and to the Trustees from time to time; or
- b) the action proposed is the granting of any leasehold or tenancy agreement for a term of three years or less.

Notwithstanding that the consent of the Secretary of State is not required for such actions in the circumstances stated in sub-clauses a) and b) above, the prior written consent of the Trustees is required in respect of each such action. The Company shall apply to the Trustees in writing for consent at least 30 days before the consent is required and the Trustees retain an absolute discretion to give or refuse their consent and with or without such conditions as the Trustees shall see fit to impose.

- 78B) Where an action proposed requires the consent of the Secretary of State because the circumstances set out in clause 78A do not apply, or because it is an action referred to in clauses 84, 85, 87 and/or 88, the Secretary of State shall not give consent to any disposal, acquisition or grant of security or borrowing against or putting at risk of such land without first consulting the Trustees and having due regard to any representations made by them and wherever applicable shall comply with clause 40B but otherwise his consent shall not be unreasonably withheld or delayed.
- 79) Each discovered loss of an amount exceeding the amount for the time being specified by the Secretary of State and arising from suspected theft or fraud, shall be reported by the Company to the Secretary of State at the earliest opportunity.
- 80) It is the responsibility of the Company to ensure that each Academy balances its budget from Academy Financial Year to Academy Financial Year. For the avoidance of doubt, this does not prevent the Company from:
 - a) subject to clause 73, carrying a surplus from one Academy Financial Year to the next; or
 - b) carrying forward from a previous Academy Financial Year or Academy Financial Years a sufficient surplus or sufficient cumulative surpluses on grants from the Secretary of State to meet an in-year deficit on such grants in a subsequent financial year; or

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- c) incurring an in-year deficit on funds from sources other than grants from the Secretary of State in any Academy Financial Year, provided it does not affect the Company's responsibility to ensure that the Company balances its overall budget from Academy Financial Year to Academy Financial Year.
- 80A) The Company shall abide by the requirements of and have regard to the Charity Commission's guidance to charities and charity trustees and in particular the Charity Commission's guidance in Protecting Charities from Harm ('the compliance toolkit'). Any references in this document which require charity trustees to report to the Charity Commission should instead be interpreted as references to report to the Principal Regulator.

Borrowing Powers

- 81) The Company shall not borrow against or so as to put at risk property or assets funded (whether in whole or in part) by the Secretary of State except:
- a) as may be permitted by the Academies Financial Handbook (as may be amended from time to time) and only where such action is not contrary to any provisions in any applicable lease and only with the prior written consent of the Trustees; or
 - b) otherwise only with the specific approval of the Secretary of State given in response to a written application to him by the Company and given in accordance with clause 78B.

The Company shall not operate an overdraft except to cover irregularities in cash flow. Such an overdraft, and the maximum amount to be borrowed, shall require approval by the Company in General Meeting and in writing by the Secretary of State, and shall be subject to any conditions which the Secretary of State may reasonably impose.

- 82) The Company shall provide 30 days' notice to the Secretary of State of its intention to borrow, whether or not such borrowing requires the Secretary of State's approval under clause 81 above.

Disposal of Assets

- 83A) For the avoidance of any doubt, the following clauses 83 to 89 inclusive of this Agreement do not apply to any Property which is the subject matter of a lease or leases granted by the Trustees and in which the Company's interest is as a tenant.

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Such Property shall not be considered to be a capital asset for the purposes of clauses 83 to 89 inclusive of this Agreement and/or clause 6.5 of any relevant Supplemental Agreement and the terms of the relevant lease or leases shall take precedence over clauses 83 to 89 of this Agreement and/or clause 6.5 of any relevant Supplemental Agreement.

- 83) Where the Company acquires a capital asset for a nil consideration or at an under value it shall be treated for the purpose of this Agreement as having incurred expenditure equal to the market value of those assets at the time that they were acquired. This provision shall not apply to an asset transferred to the Company at nil or nominal consideration and which was previously used for the purposes of an Academy or a school at the Property and/or were transferred from an LA, the value of which assets shall be disregarded.
- 84) The sale or disposal by other means, or reinvestment of proceeds from the disposal, of a capital asset by the Company shall require the consent both of the Trustees and of the Secretary of State, granted (or not as the case may be) in accordance with clauses 78A and 78B respectively, where:
- a) the Secretary of State paid capital grant in excess of the value for the time being specified by the Secretary of State for the asset; or
 - b) the asset was transferred to the Company from an LA for no or nominal consideration.
- 85) Furthermore, reinvestment of a percentage of the proceeds of disposal of a capital asset paid for with a capital grant from the Secretary of State shall require the consent of both the Trustees and of the Secretary of State, granted (or not as the case may be) in accordance with clauses 78A and 78B respectively, and reinvestment exceeding the value for the time being specified by the Secretary of State or with other special features will be subject to Parliamentary approval. The percentage of the proceeds for which consent is needed is the percentage of the initial price of the asset which was paid by capital grant from the Secretary of State.
- 86) This clause applies in the event, during the lifetime of this Agreement, of the disposal of a capital asset for which capital grant of any amount was paid by the Secretary of State, where the asset was acquired by the Company. In this event, the Company shall repay to the Secretary of State the same proportion of the proceeds of the disposal as equates with the proportion of the original cost met by the Secretary of

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State, unless the Secretary of State agrees to some or all of the proceeds being retained by the Company for its charitable purposes.

- 87) This clause applies in the event, during the lifetime of this Agreement, that the Trustees and the Secretary of State consent to the disposal of an asset which was transferred to the Company from an LA for no or nominal consideration. In this event the Trustees and the Secretary of State may give consent (or not as the case may be), in accordance with clauses 78A and 78B respectively with such conditions as to the proceeds of the disposal as the Secretary of State may consider reasonable and taking into account the amount of the proceeds to be reinvested by the Company and/or paid to the LA. Subject always to clause 78B, the Secretary of State will also have regard to any representations made by the Company and/or the LA from which the asset was transferred before giving his consent under this clause.
- 88) Except with the consent of both the Trustees and the Secretary of State, the Company shall not dispose of assets funded (whether in whole or in part) by the Secretary of State for a consideration less than the best price that can reasonably be obtained, such consent not to be unreasonably withheld or delayed.
- 89) The Company shall provide 30 days' written notice to the Secretary of State and to the Trustees of its intention to dispose of assets for a consideration less than the best price that can reasonably be obtained, whether or not such disposal requires the Secretary of State's consent under clause 88 above.

TERMINATION

- 90) This Agreement shall commence on the date hereof and continue until terminated in accordance with clause 91 or until all Supplemental Agreements have terminated.
- 91) The Secretary of State may at any time by notice in writing to the Directors, copied to the Trustees and to the Diocesan Bishop terminate this Agreement and each of the Supplemental Agreements, such termination to take effect on the date stated in the notice, on the occurrence, or where in his reasonable opinion there is a serious risk of occurrence of any of the following events:-
- a) the Company calls a meeting of its creditors (whether formal or informal) or enters into any composition or arrangement (whether formal or informal) with its creditors; or
 - b) the Company proposes a voluntary arrangement within section 1 of the Insolvency Act 1986 (as amended); or

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- c) the Company is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 provided that, for the purposes of this Clause, section 123 (1)(a) of the Insolvency Act 1986 shall have effect as if the amount of £10,000 was substituted for £750. The Company shall not be deemed unable to pay its debts for the purposes of this clause if any such demand as is mentioned in the said section is being contested in good faith by the Company; or
 - d) the Company has a receiver and manager (with the exception of Receivers and Managers or Interim Managers appointed by the Charity Commission under the Charities Act 2011), administrator or administrative receiver appointed over all or any part of its undertakings, assets or income; or
 - e) any distraint, execution or other process is levied or enforced on any of the Company's property and is not paid out, withdrawn or discharged within fifteen Business Days; or
 - f) the Company has passed a resolution for its winding up; or
 - g) an order is made for the winding up or administration of the Company.
- 92) The Company shall notify the Secretary of State as soon as possible after receiving any petition which may result in an order for the winding up or administration of the Company and shall provide an explanation to the Secretary of State of the circumstances giving rise to the service of such a petition.
- 93) Number not used

Change of Control

- 93A) The Secretary of State may at any time, subject to clause 93C) below, terminate this Agreement forthwith by notice in writing to the Company and copied to the Trustees, such termination to take effect on the date stated in the notice in the event that there is a change:
- a) in the Control of the Company;
 - b) in the Control of a legal entity that Controls the Company.

Provided that where a person ('P') is a member or director of the body corporate (as a corporation sole or otherwise) by virtue of an office, no change of Control arises merely by P's successor becoming a member or director in P's place.

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- 93B) The Company shall notify the Secretary of State in writing of any change or proposed change of Control within the meaning of clause 93A) above, as soon as reasonably practicable after it has become aware of any such change or proposed change of Control.
- 93C) When notifying the Secretary of State further to clause 93B), the Company may seek the Secretary of State's agreement that, if he is satisfied that the person assuming Control is suitable, he will not in those circumstances exercise his right to terminate this Agreement further to clause 93A).
- 94) Number not used

GENERAL

Information

- 95) Without prejudice to any other provision of this Agreement, the Secretary of State acting reasonably may from time to time call for information on, inter alia, any **Mainstream Academy** relating to but not restricted to the following matters:
- a) curriculum;
 - b) arrangements for the assessment of pupils;
 - c) teaching staff including numbers, qualifications, experience, salaries, and teaching loads;
 - d) class sizes;
 - e) outreach work with other schools and the local community;
 - f) operation of the admission criteria and over subscription arrangements for the Academy including numbers of applications for places and the number and characteristics of pupils accepted for admission – for Mainstream Academies only;
 - g) numbers of pupils excluded (including permanent and fixed term exclusions);
 - h) levels of authorised and unauthorised absence;
 - i) charging and remissions policies and the operation of those policies;
 - j) organisation, operation and building management;

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- k) financial controls;
 - l) compliance with the requirements of the Charity Commission's guidance to charities and charity trustees and in particular the Charity Commission's guidance in the Protecting Charities from Harm ('the compliance toolkit') and in CC9: Speaking Out, Campaigning and Political Activities by Charities, as amended from time to time; and
 - m) membership and proceedings of the Company and/or an Academy Committee together with any other relevant information concerning the management or governance of an Academy which, subject to clause 99), is reasonably necessary for the Secretary of State to carry out his functions generally and in relation to this Agreement or the relevant Supplemental Agreement.
- 96) The Company shall make such information available to the Secretary of State, in such form and manner and at such times as may reasonably be required. The Secretary of State shall provide the Company with such information as it may reasonably require of him for the running of an Academy.

Access by the Secretary of State's Officers

- 97) The Company shall allow access to the premises of any Academy at any reasonable time to DfE officials. All records, files and reports relating to the running of the Company and each Academy shall be available to them at any reasonable time. The Company shall provide the Secretary of State in advance with papers relating to each Academy prepared for meetings of an Academy Committee, of the Company's directors and of the members of the Company. Two DfE officials shall be entitled to attend and to speak at all such meetings, but shall withdraw from any discussion of an Academy's or the Company's relationship with the Secretary of State or any discussion of bids for funding to the Secretary of State. The Company shall take any steps which are required to secure its compliance with the obligations imposed by this clause of this Agreement.
- 98) The Company shall ensure that:
- a) the agenda for every meeting of an Academy Committee and the Company's directors;
 - b) the draft minutes of every such meeting, if they have been approved by the person acting as chairman of that meeting;
 - c) the signed minutes of every such meeting; and

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- d) any report, document or other paper considered at any such meeting
- are made available for inspection by any interested party at the relevant Academy and, as soon as is reasonably practicable, sent to the Secretary of State upon request.
- 99) There may be excluded from any item required to be made available for inspection by any interested party and to be sent to the Secretary of State by virtue of clause 98, any material relating to:
- a) a named teacher or other person employed, or proposed to be employed, at any Academy;
 - b) a named pupil at, or candidate for admission to, any Academy; and
 - c) any matter which, by reason of its nature, the Company is satisfied should remain confidential.

Notices

- 100) Any notice or communication given under or in connection with this Agreement:
- a) shall be in writing and in English;
 - b) shall be sent to the party for the attention of the contact and at the address listed in clause 100A);
 - c) shall be sent by a method listed in clause 100C); and
 - d) is deemed received as set out in clause 100C) if prepared and sent in accordance with this clause.

100A) The addresses and contacts for communications are:

Name	Position of Contact	Address
Secretary of State	Head of Academies Division	Department for Education, Sanctuary Buildings, Great Smith Street, London SW1P 3BT
The Company	The Directors of the Company	c/o Burton Road, Dudley DY1 3BV

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The Diocesan Bishop	The Archbishop of the Catholic Archdiocese of Birmingham	The Archbishop acting by his agent the Director of Education at the Diocesan Education Service, St Anne's House, 61 Coventry Road, Coleshill, Birmingham B46 3EA.
The Trustees	Trustees to the Archbishop or Bishop (as the case may be)	Cathedral House, St Chad's Queensway, Birmingham B4 6EU

- 100B) A party may change its details given in the table in clause 100A) by giving notice, the change taking effect for the party notified of the change at 9.00 am on the date five Business Days after deemed receipt of the notice.
- 100C) Any notice or other communication required to be given to a party under or in connection with this Agreement shall be delivered by hand or sent by pre-paid first-class post or other next working day delivery service. Any notice or communication shall be deemed to have been received if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the address specified in clause 100A), or otherwise at 9.00 am on the second Business Day after posting.
- 100D) This clause does not apply to the service of any proceedings or other documents in any legal action. For the purposes of clause 100, "writing" shall not include e-mail.
- 101) The service by the Secretary of State of a notice of termination of a Supplemental Agreement shall not prejudice the ability of the Company (if it wishes to do so) during the notice period to admit pupils to the relevant Academy in accordance with the provisions of this Agreement and the relevant Supplemental Agreement and to receive GAG and EAG in respect of them.

Complaints

- 102) If a complaint is made about matters arising in whole or in part prior to the opening of any **Mainstream Academy** as referred to in clause 2.4 of the relevant Supplemental Agreement, and all or part of that complaint was being or had been investigated by the Local Government Ombudsman under Part III or the Local Government Act 1974 ('Part III') or that complaint in whole or in part could have been investigated under

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Part III had the school the Academy replaced remained a maintained school, the Company:

- a) will abide by the provisions of Part III as though the Academy were a maintained school;
- b) agrees that the Secretary of State shall have the power to investigate the matter complained of as if it had taken place after conversion;
- c) agrees to act in accordance with any recommendation from the Secretary of State as though that recommendation had been made under Part III and the Academy were a maintained school.

102A) Number not used

102B) If at the time of the opening of any **Mainstream Academy** the investigation of a complaint made to the governing body of the school that **Mainstream Academy** replaced (as referred to in clause 2.4 of the relevant Supplemental Agreement) has not yet been completed, the Company shall continue to investigate that complaint in accordance with the complaints procedures established by that governing body.

102C) If a complaint is made to the Company about matters arising in whole or in part during the 12 months prior to the opening of any **Mainstream Academy** (as referred to in clause 2.4 of the relevant Supplemental Agreement) the Company agrees to investigate that complaint as if the matter complained of had taken place after the opening of that **Mainstream Academy**.

102D) Number not used

102E) With regards to a **Mainstream Academy**, if the Secretary of State could have given an order and/or a direction under section 496 and/or section 497 of the Education Act 1996 to the governing body of the school the Academy replaced (as referred to in clause 2.4 of the relevant Supplemental Agreement) and that order and/or direction related to matters occurring within the 12 months immediately prior to conversion, the Company agrees:

- a) the Secretary of State may give orders and/or directions to the Company as though the Academy were a maintained school and sections 496 and 497 applied to the governing body of that maintained school;
- b) to act in accordance with any such order and/or direction from the Secretary of State.

General


- 103) This Agreement shall not be assignable by the Company.
- 103A) No delay, neglect or forbearance on the part of any party to this Agreement in enforcing (in whole or in part) any provision of this Agreement or in exercising (in whole or in part) any right or remedy conferred on it by this Agreement shall be or be deemed to be a waiver of such provision or right or remedy or a waiver of any other provision or right or remedy or shall in any way prejudice any right or remedy of that party under this Agreement or shall amount to an election not to enforce such provision or exercise such right or remedy (including, for the avoidance of doubt, any right to terminate this Agreement). No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.
- 104) The Secretary of State and the Company recognise the difficulties in catering in this Agreement and the Supplemental Agreements for all the circumstances which may arise in relation to the Academies and undertake in good faith to conduct such consultations as may from time to time be desirable in order to promote the interests of the Academies throughout the currency of this Agreement.
- 104A) Any term of this Agreement which confers a right or benefit on a LA, the Trustees and/or the Diocesan Bishop may be enforced by that party (or their successor) pursuant to the Contracts (Rights of Third Parties) Act 1999. Subject as aforesaid, this Agreement is not intended to confer any rights on any third party pursuant to the said Act.
- 105) Termination of this agreement, for any reason, shall not affect the accrued rights, remedies, obligations or liabilities of the parties existing at termination.
- 106) This deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.
- 107) This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.
- 108) The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection

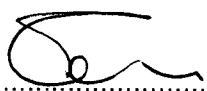
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with this agreement or its subject matter or formation (including non-contractual disputes or claims).

This Agreement was executed as a Deed on 29 / 08 / 2013

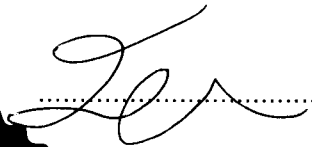
Executed on behalf of by **THE ST JOHN BOSCO CATHOLIC ACADEMY:**


.....
Director

and

.....
Director


.....
Director/Secretary

The Corporate Seal of the Secretary of State for Education, hereunto affixed is authenticated by:



.....

Duly Authorised

SCHEDULE 1

Model Supplemental Funding Agreement for a Catholic Multi Mainstream Academy

THIS AGREEMENT made 2013

BETWEEN

(1) THE SECRETARY OF STATE FOR EDUCATION; and

(2) BISHOP MILNER CATHOLIC SCHOOL

IS SUPPLEMENTAL TO THE MASTER FUNDING AGREEMENT made between the same parties and dated 2013 (the "**Master Agreement**").

1 DEFINITIONS AND INTERPRETATION

1.1 Except as expressly provided in this Agreement words and expressions defined in the Master Agreement and/or the Articles shall have the same meanings in this Agreement as were ascribed to them in the Master Agreement and/or the Articles.

1.2 The following words and expressions shall have the following meanings:

"the Academy" means the Bishop Milner Catholic School established at Burton Road, Dudley DY1 3BV.

1.3 Reference in this Agreement to clauses and Annexes shall, unless otherwise stated, be to clauses and annexes of this Agreement.

2 THE ACADEMY

2.1 The Company will establish and maintain, and carry on or provide for the carrying on of the Academy in accordance with the Master Agreement and this Agreement.

2.2 The curriculum provided by the Academy to pupils up to the age of 16 shall be broad and balanced.

2.3 The requirements for the admission of pupils to the Academy are set out at Annex 1.

ACADEMY OPENING DATE

- 2.4 The Academy shall open as a school on 1 September 2013 replacing Bishop Milner Catholic School which shall cease to be maintained by the Local Authority on that date, which date shall be the conversion date within the meaning of the Academies Act 2010.
- 2.5 The planned capacity of the Academy is 800 in the age range 11-19, including a sixth form of 200 places.

3 CAPITAL GRANT

- 3.1 Pursuant to clauses 38, 40A and 40B of the Master Funding Agreement, the Secretary of State may, in his absolute discretion provide Capital Expenditure funding in accordance with any arrangements he considers appropriate.

4 GAG AND EAG

- 4.1 The Secretary of State agrees to pay GAG and EAG to the Company in relation to the Academy in accordance with the Master Agreement.

5 TERMINATION

- a) 5.1A The Secretary of State is entitled, upon the written application to him by the Founder Member requesting such action and setting out its grounds for requesting such action, should he agree with the Founder Member, to issue to the Company a written notice of his intention to terminate this Agreement on a specified date.
- 5.1 Either party to this Agreement may give not less than seven Academy Financial Years' written notice to terminate this Agreement, such notice to expire on 31 August 2021 or any subsequent anniversary of that date and the Company shall copy any such notice sent or received to the Founder Member and to the Trustees.
- 5.2 The Secretary of State shall be entitled to issue to the Company a written notice of his intention to terminate this Agreement ("Termination Warning Notice") where in his opinion, acting reasonably, he considers that:
- 5.2.1 the Academy is no longer meeting the requirements referred to in clause 12 of the Master Agreement (subject to clause 5.9 of this Agreement);
- 5.2.2 the conditions and requirements set out in clauses 13-34B of the Master

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- Agreement are no longer being met;
- 5.2.3 the standards of performance of pupils at the Academy are unacceptably low;
 - 5.2.4 there has been a serious breakdown in the way the Academy is managed or governed;
 - 5.2.5 the safety of pupils or staff is threatened (whether by breakdown of discipline or otherwise); or
 - 5.2.6 the Company is otherwise in material breach of the provisions of this Agreement or the Master Agreement
- and such notice shall be copied to the Founder Member.
- 5.3 A Termination Warning Notice issued by the Secretary of State in accordance with clause 5.2 shall specify:
- 5.3.1 which reason or reasons listed in clause 5.2 above are relied on by the Secretary of State as a default on which to issue his Termination Warning Notice;
 - 5.3.2 the remedial measure or measures which the Secretary of State requires the Company to carry out, with associated deadlines, in order to rectify the default or defaults identified ("Specified Remedial Measures"); and
 - 5.3.3 the last date by which the Company must respond to the Termination Warning Notice which must allow the Company a reasonable period in which to provide to the Secretary of State its representations with regard thereto and/or to confirm that it accepts and agrees to undertake the Specified Remedial Measures.
- 5.4 The Secretary of State shall consider any response and representations made by the Company, the Founder Member or on their behalf which are received by him by the date specified in accordance with clause 5.3.3 and within a reasonable time thereafter shall confirm whether he considers that:
- 5.4.1 in the light of the representations made in response to the Termination Warning Notice, some or all of the Specified Remedial Measures are not required to be implemented (and if so which) and/or the Specified Remedial Measures are being or will be implemented within the specified timeframe; or
 - 5.4.2 subject to any further measures he reasonably requires ("Further Remedial Measures") being implemented by a specified date or any evidence he requires being provided, the implementation of such measures has been or will be successfully completed within the specified timeframes;

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in which cases the Secretary of State shall notify the Company that his intention to terminate this Agreement is withdrawn; or

5.4.3 he is not satisfied that the Company will rectify the default or defaults identified in the Termination Warning Notice within the specified timeframes. In such circumstances, the Secretary of State may notify the Company of his intention to terminate the Agreement on a specified date, which date must take account of the provisions of clause 5.5A below.

Each notice issued by the Secretary of State pursuant to this clause 5.4 shall be copied to the Founder Member. The Secretary of State shall use all reasonable endeavours to inform and keep informed the Company and the Founder Member of his intentions and any steps he is taking or intends to take in relation to the termination (or not) of this Agreement.

5.5 Subject to clause 5.5A below, the Secretary of State may by further notice in writing to the Company and copied to the Founder Member terminate this Agreement with effect from a specified date, but which date must take account of the provisions of clause 5.5A below in the event that:

5.5.1. neither the Company, nor the Founder Member nor any party on their behalf has, by the date specified in clause 5.3.3, responded to the Termination Warning Notice either confirming that the Company accepts and agrees to undertake the Specified Remedial Measures or providing representations with regard to the Specified Remedial Measures; or

5.5.2. the Company has not carried out the Specified Remedial Measures and/or Further Remedial Measures within the specified timeframes;

provided that having considered any representations made pursuant to clause 5.3.3 and clause 5.5A, the Secretary of State remains satisfied that it is appropriate to terminate this Agreement.

b) 5.5A In the circumstances of clause 5.4.3 the Secretary of State shall, if so requested in writing by the Company and/or the Founder Member within thirty days from such notification, meet a deputation including representatives from directors of the Company, the Founder Member and the Academy Committee to discuss his concerns. If following such meeting he has good reasons for remaining satisfied that the Company will not rectify the default or defaults identified in the Termination Warning Notice within the specified timeframes,

he shall give the Company written notice to terminate this Agreement with effect from the specified date issued pursuant to clause 5.4.3 or such later date as may be reasonable in the circumstances and be stated in the Secretary of State's further notice issued pursuant to clause 5.5 and such notice shall be copied to the Founder Member.

Notice of Intention to Terminate

5.6 The Secretary of State may at any time give written notice to the Company and copied to the Founder Member of his intention to terminate this Agreement where the Chief Inspector gives notice to the Company in accordance with section 13(3) of the Education Act 2005 stating that in the Chief Inspector's opinion –

5.6.1. special measures are required to be taken in relation to the Academy; or

5.6.2. the Academy requires significant improvement⁷.

5.7 Any notice issued by the Secretary of State in accordance with clause 5.6 shall invite the Company and the Founder Member to respond with any representations within a specified timeframe (such timeframe being not less than 10 Business Days).

5.8 Where the Secretary of State has given notice of his intention to terminate this Agreement in accordance with clauses 5.6 and 5.7 and –

5.8.1. he has not received any representations from the Company or the Founder Member or any party on their behalf within the timeframe specified in clause 5.7; or

5.8.2. having considered the representations made by the Company or the Founder Member or on their behalf pursuant to clause 5.7, the Secretary of State remains satisfied that it is appropriate to terminate this Agreement

he may by further notice in writing to the Company and copied to the Founder Member terminate this Agreement with effect from a specified date.

Termination with Immediate Effect

⁷ Note: the term "significant improvement" is set out in legislation under section 44(2) of the Education Act 2005, and refers to a school which requires "significant improvement...if it is performing significantly less well than it might in all the circumstances reasonably be expected to perform." Further guidance is available from the Department for Education.

- 5.9 If the Secretary of State has cause to serve a notice on the Company under section 165 of the Education Act 2002 and a determination (from which all rights of appeal have been exhausted) has been made that the Academy shall be struck off the Register of Independent Schools, he may terminate this Agreement by notice in writing to the Company and copied to the Founder Member such termination to take effect on the date of the notice.

Notice of Intention to Terminate by Company

- 5.10 **The Secretary of State shall, at a date preceding the start of each Academy Financial Year, provide to the Company an indication of the level of funding to be provided by the Secretary of State to the Company by way of GAG and EAG in the next following Academy Financial Year (the "Indicative Funding"). If the Company is of the opinion that, after receipt of the Indicative Funding for the next following Academy Financial Year (the "Critical Year") and of the taking into account all other resources available and likely to be available to the Academy, including such funds as are set out in clause 73 of the Master Agreement and such other funds as are and likely to be available to the Academy from other academies operated by the Company ("All Other Resources"), it is likely that the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding, to become insolvent (and for this reason only) then the Company may give notice of its intention to terminate this Agreement at the end of the then current Academy Financial Year.**
- 5.11 **Any notice given by the Company under clause 5.10 shall be in writing and shall be served on the Secretary of State and on the Founder Member not later than 28 February preceding the Critical Year or, if the Secretary of State shall not have given notice of the Indicative Funding to the Company on or before the date specified in clause 5.10 above, within six weeks after the Secretary of State shall have done so. The notice given by the Company pursuant to clause 5.10 must specify:**
- 5.11.1.the grounds upon which the Company's opinion is based and include the evidence of those grounds and any professional accounting advice the Company has received and including a detailed statement of steps which the Company proposes to take with a view to ensuring that as soon as reasonably practicable the costs of running the Academy are reduced

sufficiently to ensure that such costs are less than the Indicative Funding and All Other Resources and the period of time within which such steps will be taken; and

5.11.2. the shortfall in the Critical Year between the Indicative Funding and All Other Resources expected to be available to the Company to run the Academy and the projected expenditure on the Academy; and

5.11.3. a detailed budget of income and expenditure for the Academy during the Critical Year (the "Projected Budget").

5.12 **Both parties undertake to use their best endeavours to agree whether or not the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding and All Other Resources, to become insolvent. Both parties recognise that they will need to engage in a constructive dialogue at the time about how best to provide education for the pupils at the Academy and undertake to use their best endeavours to agree a practical solution to the problem and shall use all reasonable endeavours to procure that any other party with an interest in the Academy (such as the Trustees, the Founder Member and the Diocesan Bishop) are consulted on and/or engaged in or kept informed of such constructive dialogue to the extent each interested party may request and the parties shall have due regard to any representations made by such interested parties.**

5.13 **If no agreement is reached by 30 April (or such other date as may be agreed between the parties) as to whether the cost of running the Academy during the Critical Year on the basis of the Indicative Funding and All Other Resources would cause the Company to become insolvent, then that question shall be referred to an independent expert (the "Expert") for resolution. The Expert's determination shall be final and binding on both parties and be copied to the Founder Member. The Expert shall be requested to specify in his determination the amount of the shortfall in funding (the "Shortfall"). The Expert shall be an insolvency practitioner with significant professional experience of educational institutions or academies. If the parties fail to agree upon the appointment of the Expert then the Expert shall be appointed by the President for the time being of the Institute of Chartered Accountants in England and Wales. The Expert's fees shall be borne equally between the parties.**

- 5.14 The Expert shall be required in reaching his determination to take account of advice from an educational specialist who is professionally familiar with the issues arising from the budget management of schools. If the parties fail to agree upon the appointment of the educational specialist then the educational specialist shall be appointed by the Chairman for the time being of the Specialist Schools and Academies Trust. The educational specialist's fees shall be borne equally between the parties.
- 5.15 If the Expert determines that the cost of running the Academy during the Critical Year would cause the Company, on the basis of the Indicative Funding and All Other Resources, to become insolvent, the Secretary of State shall provide sufficient additional funding to cover the Shortfall and in accordance with the Master Agreement.
- c) 5.15A If the Secretary of State does not give a written assurance to the Company within 21 days after the Expert's determination shall have been given to the parties, copied to the Founder Member, that he shall provide sufficient additional funding and thereafter does provide sufficient additional funding to cover the Shortfall, then the Company shall be entitled to terminate this Agreement, by notice to the Secretary of State expiring on 31 August prior to the Critical Year and such notice shall be copied to the Trustees and to the Founder Member.
- 5B In the event of any termination of this Agreement under clause 5.10 and/or in circumstances where the Academy would not otherwise be closing, the Secretary of State agrees to seek and have due regard to any wishes of the Diocesan Bishop to continue to provide education at the Property through a "voluntary" maintained school under the provisions of the Schools Standards and Framework Act 1998 and the provisions of this clause shall continue to apply notwithstanding any termination or expiry of this Agreement.

6 EFFECT OF TERMINATION

- 6.1 In the event of termination of this Agreement however occurring, the school shall cease to be an Academy within the meaning of Sections 1 and 1A of the Academies Act 2010.
- 6.2 Subject to clause 6.3 and 6.4, if the Secretary of State terminates this Agreement pursuant to clause 5.1 of this Agreement the Secretary of State

shall indemnify the Company. If the Secretary of State terminates this Agreement otherwise than pursuant to clause 5.1 of this Agreement, the Secretary of State may in his absolute discretion indemnify or (to such extent if any as he may in his absolute discretion consider appropriate) compensate the Company.

- 6.3 The amount of any such indemnity or compensation shall be determined by the Secretary of State having regard to any representations made to him by the Company, the Trustees and/or the Founder Member and shall be paid at such times and in such manner as the Secretary of State may reasonably think fit.
- 6.4 The categories of expenditure incurred by the Company in consequence of the termination of the Agreement in respect of which the Secretary of State shall (where the Secretary of State terminates this Agreement pursuant to clause 5.1) indemnify the Company and may (where the Secretary of State terminates this Agreement otherwise than pursuant to clause 5.1) in his absolute discretion indemnify or compensate the Company include (but not by way of limitation), staff compensation and redundancy payments, compensation payments in respect of broken contracts, expenses of disposing of assets or adapting them for other purposes, legal and other professional fees, and dissolution expenses.
- 6.5 Subject to clause 6.6 of this Agreement and clauses 78, 78A, 78B and 83A of the Master Agreement, on the termination of this Agreement however occurring, the Company shall in respect of any of its capital assets owned and used solely and exclusively by the Academy at the date of termination:
- 6.5.1 promptly transfer a proportion of the assets to a person nominated by the Secretary of State, if the Secretary of State considers that all or some of those assets need to be used for any educational purposes by that nominee. The proportion of the assets to be transferred shall be the same as the proportion of the capital contribution made by the Secretary of State to the original value of those assets, whether that contribution was made on the establishment of the Academy or at a later date; or
- 6.5.2 if the Secretary of State confirms that a transfer under clause 6.5.1 is not required, promptly repay to the Secretary of State a sum equivalent to the percentage of the value of the assets at the date of termination, or, by

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agreement with the Secretary of State, at the date of subsequent disposal of those assets. Such percentage to be the same as the percentage of the capital contribution made by the Secretary of State to the original value of those assets, whether that contribution was made on the establishment of the Academy or later.

6.6 The Secretary of State may waive in whole or in part the repayment due under clause 6.5.2 if:

6.6.1 The Company obtains his permission to invest the proceeds of sale for its charitable objects; or

6.6.2 The Secretary of State directs all or part of the repayment to be paid to the LA and/or to the Trustees.

6.7 The sale or disposal by other means of publicly funded land held for the purposes of an Academy is now governed by Part 3 of Schedule 1 to the Academies Act 2010 and when making a direction under that Part the Secretary of State shall have regard to any representations from the Company and the Trustees and/or the LA from which the land was transferred.

Restrictions on Land transfer

6A Whenever the Company is or will be receiving publicly funded Land at nil consideration (which for the purposes of this transaction shall include leases granted at a peppercorn rent) the Company:

6A.1 shall, within 28 days from the transfer to it of the Land, apply to the Land Registry for a restriction in the proprietorship register (under section 43(1)(a) of the Land Registration Act 2002 in Form RX1 as prescribed by Rule 91 and Schedule 4 of the Land Registration Rules 2003) in the following terms:

No disposition of the registered estate by the proprietor of the registered estate is to be registered without a written consent signed by the Secretary of State for Education, of Sanctuary Buildings, Great Smith Street, London SW1P 3BT

6A.2 shall take any further steps required to ensure that the restriction referred to in clause 6A.1 is entered on the proprietorship register,

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6A.3 shall provide the Secretary of State with confirmation of the entry of the restriction referred to in clause 6A.1 as soon as practicable after it receives notification from the Land Registry,

6A.4 in the event that it has not registered the restriction referred to in clause 6A.1, hereby consents to the entering of the restriction referred to in 6A.1 in the register by the Secretary of State (under s. 43(1)(b) of the Land Registration Act 2002),

6A.5 shall not, without the consent of the Secretary of State, apply to dis-apply, modify or remove (by cancellation or otherwise) a restriction entered in accordance with clause 6A.1 or 6A.4 above, whether by itself, a holding company, a subsidiary company, or a receiver, administrator or liquidator acting in the name of the Company.

6B While the Academy operates from the Property or any part of it pursuant to leases between the Company and the LA and/or the Trustees, in respect of such Property the terms of such leases shall prevail over clause 6A of this Agreement.

7 ANNEX

7.1 **The Annex to this Agreement forms part of and is incorporated into this Agreement.**

8 THE MASTER AGREEMENT

8.1 **Except as expressly provided in this Agreement the Master Agreement shall continue in full force and effect.**

8.2 Number not used

8A NOTICES

8A.1 The notice provisions in clauses 100 of the Master Agreement shall apply to any notice or communication concerning or to be issued in accordance with this Agreement, and in addition, in the case of a notice or communication to the Founder Member to the Financial Secretary at Cathedral House, St Chad's Queensway, Birmingham B4 6EU or such other address as may be notified to the Company, the

Secretary of State, the Diocesan Bishop and the Trustees in writing from time to time by the Founder Member.

8B **THIRD PARTY RIGHTS**

8B.1 Any term of this Agreement which confers a right or benefit on a LA, the Trustees, the Founder Member and/or the Diocesan Bishop may be enforced by that party (or their successor) pursuant to the Contracts (Rights of Third Parties) Act 1999. Subject as aforesaid, this Agreement is not intended to confer any rights on any third party pursuant to the said Act.

9 **GENERAL**

9.1 **This Agreement shall not be assignable by the Company.**

9.2 **No delay, neglect or forbearance on the part of the Secretary of State in enforcing (in whole or in part) any provision of this Agreement or in exercising (in whole or in part) any right or remedy conferred on him by this Agreement shall be or be deemed to be a waiver of such provision or right or remedy or a waiver of any other provision or right or remedy or shall in any way prejudice any right or remedy of the Secretary of State under this Agreement or shall amount to an election not to enforce such provision or exercise such right or remedy (including, for the avoidance of doubt, any right to terminate this Agreement). No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.**

9.3 Termination of this Agreement, for any reason, shall not affect the accrued rights, remedies, obligations or liabilities of the parties existing at termination.

9.4 This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one agreement.

9.5 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

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

disputes or claims).

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This Agreement was executed as a Deed on

2013

Executed on behalf of the Company by:

.....
Director

.....
Director/Secretary

The Corporate Seal of the Secretary of State for Education, hereunto affixed is authenticated by:

.....

Duly Authorised

ANNEX TO THIS SUPPLEMENTAL AGREEMENT

Requirements for the Admission for pupils at the Academy
Annex 1

REQUIREMENTS FOR THE ADMISSION OF PUPILS TO BISHOP MILNER CATHOLIC SCHOOL

GENERAL

1. This annex may be amended in writing at any time by agreement between the Secretary of State and the Company.
2. The Company will act in accordance with, and will ensure that Independent Appeal Panel members are trained to act in accordance with, all relevant provisions of the School Admissions Code and the School Admission Appeals Code published by the Department for Education (the "Codes") as they apply at any given time to maintained schools and with equalities law and the law on admissions as they apply to maintained schools. For this purpose, reference in the Codes or legislation to "admission authorities" shall be deemed to be references to the Directors of the Company.
2. (a) Notwithstanding the generality of paragraph 2 of this Annex, the Company will participate in the co-ordinated admission arrangements operated by the Local Authority (LA) and the local Fair Access Protocol.
3. Notwithstanding any provision in this Annex, the Secretary of State may:
 - (a) direct the Company to admit a named pupil to the Bishop Milner Catholic School on application from an LA. This will include complying with a School Attendance Order. Before doing so the Secretary of State will consult the Company;
 - (b) direct the Company to admit a named pupil to the Bishop Milner Catholic School if the Company has failed to act in accordance with this Annex or has otherwise failed to comply with applicable admissions and equalities legislation or the provisions of the Codes;
 - (c) direct the Company to amend its admission arrangements where they fail to comply with the School Admissions Code or the School Admission Appeals Code.
4. Bishop Milner Catholic School is a faith Academy in the Catholic Archdiocese of Birmingham.
5. The Company shall ensure that parents and 'relevant children'⁸ will have the right of appeal to an Independent Appeal Panel if they are dissatisfied with an admission decision of the Company. The Independent Appeal Panel will be independent of the Company. The arrangements for appeals will comply with the School Admission

⁸ 'relevant children means:

- (a) in the case of appeals for entry to a sixth form, the child; and
- (b) in any other case, children who are above compulsory school age, or will be above compulsory school age by the time they start to receive education at the school.

Appeals Code published by the Department for Education. A Panel's decision that a child shall be admitted is binding.

Relevant Area

6. Subject to paragraph 7, the meaning of "Relevant Area" for the purposes of consultation requirements in relation to admission arrangements is that determined by the local authority for maintained schools in the area in accordance with the Education (Relevant Areas for Consultation on Admission Arrangements) Regulations 1999.
7. If the Company does not consider the relevant area determined by the local authority for the maintained schools in the area to be appropriate, it must apply to the Secretary of State by 1 August for a determination of the appropriate relevant area for the Academy, setting out the reasons for this view. The Secretary of State will consult the Company and the LA in which the Academy is situated in reaching a decision.

Requirement to admit pupils

8. Pupils on roll in any predecessor maintained or independent school will transfer automatically to the Academy on opening. All children already offered a place at any predecessor school will be admitted.
9. The Company will:
 - (a) subject to its right of appeal to the Secretary of State in relation to a named pupil, admit all pupils with a statement of special educational needs naming the Academy;
 - (b) determine admission oversubscription criteria for the Academy that give the highest priority to looked after children and previously looked after children, in accordance with the relevant provisions of the School Admissions Code.

Oversubscription criteria, admission number, consultation, determination and objections

10. The Academy admission arrangements will include oversubscription criteria, and an admission number for each relevant age group⁹. The Company will consult on the Academy's admission arrangements and determine them in line with the requirements within the School Admissions Code.
11. The Office of the School's Adjudicator (OSA) will consider objections to the Academy's admission arrangements, that objections should be submitted to the OSA.
12. A determination of an objection by the OSA will be binding upon the Academy and the Company will make appropriate changes as quickly as possible.

⁹ 'Relevant age group' means normal point of admission to the school, for example, Year R, Year 7 and Year 12.

ANNEX A

Memorandum and Articles of the Company

COMPANY NOT HAVING A SHARE CAPITAL

MEMORANDUM OF ASSOCIATION

OF

THE ST JOHN BOSCO CATHOLIC ACADEMY

Each subscriber to this memorandum of association wishes to form a company under the Companies Act 2006 and agrees to become a member of the company.

NAME OF EACH SUBSCRIBER	AUTHENTICATION BY EACH SUBSCRIBER
Barberi and Newman Academy Trust for and on behalf of Barberi and Newman Academy Trust

DATED

2013

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2013

THE COMPANIES ACT 2006

A COMPANY LIMITED BY GUARANTEE

ARTICLES OF ASSOCIATION

OF

THE ST JOHN BOSCO CATHOLIC ACADEMY

COMPANY NUMBER:

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THE COMPANIES ACT 2006

COMPANY LIMITED BY GUARANTEE

ARTICLES OF ASSOCIATION

OF

THE ST JOHN BOSCO CATHOLIC ACADEMY

INTERPRETATION

1. In these Articles:-

- a. "the Academies" means all the schools and educational institutions referred to in Article 5(h) and established by the Company (and "Academy" shall mean any one of those schools);
- A1. "Academy Committees" means the committees established by the Directors pursuant to Articles 100-104 (and "Academy Committee" means any one of these committees);
- A2. "Academy Representative" means any person elected or appointed as a member of an Academy Committee;
- b. Number not used;
- c. "the Articles" means these Articles of Association of the Company excluding for the avoidance of doubt any Scheme of Delegation which may be appended to these Articles on incorporation;
- d. Number not used;
- D1. "Catholic" means in full communion with the See of Rome;
- e. "Chief Inspector" means Her Majesty's Chief Inspector of Education, Children's Services and Skills or his successor;
- f. "clear days" in relation to the period of a notice means the period excluding the day when the notice is given or deemed to be given and the day on which it is given or on which it is to take effect;
- g. "Clerk" means the clerk to the Directors or any other person appointed to perform the duties of the clerk to the Directors, including a joint, assistant or deputy clerk;

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- G1. "Code of Canon Law of the Latin Church" means the general norms of the Catholic Church Latin Rite;
- h. "the Company" means save as otherwise defined at Article 6.9 the company intended to be regulated by these Articles and referred to in Article 2;
- H1. "Diocese" means the Roman Catholic diocese in which the Academies are situated;
- H2. "Diocesan Bishop" means the Bishop of the Diocese and includes any person agency or office exercising ordinary jurisdiction in his name;
- i. "the Directors" means save as otherwise defined at Article 6.9 the directors of the Company (and "Director" means any one of those directors);¹⁰
- I1 "Executive Principal" means such person as may be appointed by the Directors as the Executive Principal of the Company with line management responsibility over all the Academies' Principals and responsibility for standards in all the Academies;
- j. "financial expert" means an individual, company or firm who is authorised to give investment advice under the Financial Services and Markets Act 2000;
- J1. "Foundation Director" means a Director appointed pursuant to Article 50;
- J2. "Founder Member" means the Barberi and Newman Academy Trust (Company Number 8183803) and, where appropriate, any successor of such entity as determined by the Diocesan Bishop from time to time;
- k. Number not used;
- l. "Local Authority Associated Persons" means any person associated with any local authority within the meaning given in section 69 of the Local Government and Housing Act 1989;
- m. Number not used;

¹⁰ Directors will be appointed to the board which has overall control of, responsibility for and runs all of the Academies within the group subject to the delegation of certain functions and duties under the Scheme of Delegation. The composition of the board needs to be considered carefully.

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- M1. "Master Funding Agreement" means the master agreement entered into by the Company and the Secretary of State under section 1 of the Academies Act 2010;
- n. "Member" means a member of the Company and someone who as such is bound by the undertaking contained in Article 8;
- o. Number not used;
- p. "Office" means the registered office of the Company;
- q. "Parent Directors" means the Directors elected or appointed pursuant to Articles 53 – 56B inclusive;
- Q1. "Principal Director" means any Principal appointed as a Director pursuant to Article 51A or 52, as the case may be;
- r. "Principals" means the head teachers of the Academies (and "Principal" means the head teacher of one or more of the individual Academies);
- s. "Principal Regulator" means the body or person appointed as the Principal Regulator under the Charities Act 2011;
- t. "Relevant Funding Agreements" means the agreement or agreements entered into by the Company and the Secretary of State under section 1 of the Academies Act 2010 for the establishment of each Academy, including any variation or supplemental agreements thereof;
- T1. "Scheme of Delegation" means the legally binding agreement setting out the terms of reference for the delegation of powers and responsibilities by the Directors to the relevant Academy Committee substantially in the form appended to these Articles;¹¹
- u. "the seal" means the common seal of the Company if it has one;
- v. "Secretary of State" means the Secretary of State for Education or successor;
- w. "Staff Director" means an employee of the Company who may be appointed as a Director pursuant to Article 50B;

¹¹ Careful thought has been given to the Scheme of Delegation and the form appended has been approved by the Archdiocese of Birmingham. The DfE acknowledge that the Scheme of Delegation, although a legally binding document does not require its approval.

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- x. "teacher" means a person employed under a contract of employment or a contract for services or otherwise engaged to provide his services as a teacher at one or more Academies;
 - X1. "Trustees" means the Birmingham Roman Catholic Diocesan Trustees Registered a body corporate under Part 12 of the Charities Act 2011 for the Trustees of the Birmingham Diocesan Trust (registered Charity Number 234216) of Cathedral House, Saint Chad's, Queensway, Birmingham B4 6EX;
 - y. "the United Kingdom" means Great Britain and Northern Ireland;
 - z. words importing the masculine gender only shall include the feminine gender. Words importing the singular number shall include the plural number, and vice versa;
 - aa. subject as aforesaid, words or expressions contained in these Articles shall, unless the context requires otherwise, bear the same meaning as in the Companies Act 2006, as appropriate;
 - bb. any reference to a statute or statutory provision shall include any statute or statutory provision which replaces or supersedes such statute or statutory provision including any modification or amendment thereto.
2. The Company's name is The St John Bosco Catholic Academy (and in this document it is called "**the Company**").
3. The Company's registered office is to be situated in England and Wales.

OBJECTS

4. The Company's object ("**the Object**") is specifically restricted to the following: to advance for the public benefit education in the United Kingdom, in particular but without prejudice to the generality of the foregoing by establishing, maintaining, carrying on, managing and developing Catholic schools designated as such ("**the Mainstream Academies**") offering a broad and balanced curriculum or 16 to 19 Academies offering a curriculum appropriate to the needs of its students ("**the 16 to 19 Academies**") and in each case conducted as Catholic Schools in accordance with the Code of Canon Law of the Latin Church from time to time and the doctrinal, social and moral teachings of the Catholic Church from time to time and following the directives and policies issued by the Diocesan Bishop

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to ensure that the formation, governance and education of the Academies is based on the principles of Catholic doctrine, and at all times serving as a witness to the Catholic faith in Our Lord Jesus Christ.¹²

5. In furtherance of the Object but not further or otherwise the Company may exercise the following powers:-
- (a) to draw, make, accept, endorse, discount, execute and issue promissory notes, bills, cheques and other instruments, and to operate bank accounts in the name of the Company;
 - (b) to raise funds and to invite and receive contributions provided that in raising funds the Company shall not undertake any substantial permanent trading activities and shall conform to any relevant statutory regulations;
 - (c) to acquire, alter, improve and (subject to such consents as may be required by law) to charge or otherwise dispose of property;
 - (d) subject to Article 6 below to employ such staff, as are necessary for the proper pursuit of the Object and to make all reasonable and necessary provision for the payments of pensions and superannuation to staff and their dependants;
 - (e) to establish or support, whether financially or otherwise, any charitable trusts, associations or institutions formed for all or any of the Object;
 - (f) to co-operate with other charities, other independent and maintained schools, schools maintained by a local authority, 16-19 academies, alternative provision academies, academies and institutions within the further education sector, voluntary bodies and statutory authorities operating in furtherance of the Object and to exchange information and advice with them;

¹² Note: the Diocesan Bishop has ecclesial authority under Canon Law to determine and decide whether an Academy may be entitled "catholic". No secular authority has that right. As the Object (Article 4) is the only place in the Articles of Association which refers to the Academy being a catholic institution it is considered important to set out expressly the criteria the Diocesan Bishop uses to decide whether to give his consent to the conversion to academy status and to enshrine this in the Objects Article. This wording has been agreed with the DfE and approved by the Charity Commission.

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- (g) to pay out of funds of the Company the costs, charges and expenses of and incidental to the formation and registration of the Company;
- (h) to establish, maintain, carry on, manage and develop the Academies at locations to be determined by the Directors and in so doing shall have regard to the respective ethos and mission statement of each Academy;
- (i) to offer scholarships, exhibitions, prizes and awards to pupils and students, former pupils and former students, and otherwise to encourage and assist pupils and students and former pupils and former students;
- (j) to provide educational facilities and services to students of all ages and the wider community for the public benefit;
- (k) to carry out research into the development and application of new techniques in education and to their approach to curriculum development and delivery and to publish the results of such research, and to develop means of benefiting from application of the experience of industry, commerce, other schools, educational institutions and the voluntary sector to the education of pupils and students in academies;
- (l) subject to such consents as may be required by law and/or by any contract entered into by or on behalf of the Company, to borrow and raise money for the furtherance of the Object in such manner and on such security as the Company may think fit;
- (m) to deposit or invest any funds of the Company not immediately required for the furtherance of its object (but to invest only after obtaining such advice from a financial expert as the Directors consider necessary and having regard to the suitability of investments and the need for diversification);
- (n) to delegate the management of investments to a financial expert, but only on terms that:
 - (i) the investment policy is set down in writing for the financial expert by the Directors;
 - (ii) every transaction is reported promptly to the Directors;

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- (iii) the performance of the investments is reviewed regularly with the Directors;
 - (iv) the Directors are entitled to cancel the delegation arrangement at any time;
 - (v) the investment policy and the delegation arrangement are reviewed at least once a year;
 - (vi) all payments due to the financial expert are on a scale or at a level which is agreed in advance and are notified promptly to the Directors on receipt; and
 - (vii) the financial expert must not do anything outside the powers of the Directors;
- (o) to arrange for investments or other property of the Company to be held in the name of a nominee company acting under the control of the Directors or of a financial expert acting under their instructions, and to pay any reasonable fee required;
- (p) to provide indemnity insurance to cover Directors in accordance with, and subject to the conditions of section 232 to 235 of the Companies Act 2006, section 189 of the Charities Act 2011 or any other provision of law applicable to charitable companies and any such indemnity is limited accordingly;
- (q) Number not used;
- (r) to establish subsidiary companies to carry on any trade or business for the purpose of raising funds for the Company;
- (s) to do all such other lawful things as are necessary for or are incidental to or conducive to the achievement of the Object.
- 6.1. The income and property of the Company shall be applied solely towards the promotion of the Object.

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6.2. None of the income or property of the Company may be paid or transferred directly or indirectly by way of dividend bonus or otherwise by way of profit to any Member. Nonetheless a Member who is not also a Director may:

- (a) benefit as a beneficiary of the Company;
- (b) be paid reasonable and proper remuneration for any goods or services supplied to the Company;
- (c) be paid rent for premises let by the Member if the amount of the rent and other terms of the letting are reasonable and proper; and
- (d) be paid interest on money lent to the Company at a reasonable and proper rate, such rate not to exceed 2 per cent per annum below the base lending rate of a UK clearing bank selected by the Directors, or 0.5%, whichever is the higher.

6.3. A Director may benefit from any indemnity insurance purchased at the Company's expense to cover the liability of the Directors which by virtue of any rule of law would otherwise attach to them in respect of any negligence, default or breach of trust or breach of duty of which they may be guilty in relation to the Company: Provided that any such insurance shall not extend to:

- (a) any claim arising from any act or omission which Directors knew to be a breach of trust or breach of duty or which was committed by the Directors in reckless disregard to whether it was a breach of trust or breach of duty or not; and
- (b) the costs of any unsuccessful defence to a criminal prosecution brought against the Directors in their capacity as directors of the Company.

Further, this Article does not authorise a Director to benefit from any indemnity insurance that would be rendered void by any provision of the Companies Act 2006, the Charities Act 2011 or any other provision of law.

6.4. A company, which has shares listed on a recognised stock exchange and of which any one Director holds no more than 1% of the issued capital of that company, may receive fees, remuneration or other benefit in money or money's worth from the Company.

6.5. A Director may at the discretion of the Directors be reimbursed from the property of the Company for reasonable expenses properly incurred by him or her when acting on behalf of the Company, but excluding expenses in connection with foreign travel.

6.6. No Director may:

- (a) buy any goods or services from the Company;
- (b) sell goods, services, or any interest in land to the Company;
- (c) be employed by, or receive any remuneration from the Company (other than the Executive Principal, Principals or any Staff Director whose employment and/or remuneration is subject to the procedure and conditions in Article 6.8);
- (d) receive any other financial benefit from the Company;

unless:

- (i) the payment is permitted by Article 6.7 and the Directors follow the procedure and observe the conditions set out in Article 6.8;
or
- (ii) the Directors obtain the prior written approval of the Charity Commission and fully comply with any procedures it prescribes.

6.7. Subject to Article 6.8, a Director may:

- (a) receive a benefit from the Company in the capacity of a beneficiary of the Company;
- (b) be employed by the Company or enter into a contract for the supply of goods or services to the Company, other than for acting as a Director;
- (c) receive interest on money lent to the Company at a reasonable and proper rate not exceeding 2% per annum below the base rate of a clearing bank to be selected by the Directors, or 0.5%, whichever is the higher;

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- (d) receive rent for premises let by the Director to the Company if the amount of the rent and the other terms of the lease are reasonable and proper.

6.8. The Company and its Directors may only rely upon the authority provided by Article 6.7 if each of the following conditions is satisfied:

- (a) the remuneration or other sums paid to the Director do not exceed an amount that is reasonable in all the circumstances;
- (b) the Director is absent from the part of any meeting at which there is discussion of:
 - (i) his or her employment, remuneration, or any matter concerning the contract, payment or benefit; or
 - (ii) his or her performance in the employment, or his or her performance of the contract; or
 - (iii) any proposal to enter into any other contract or arrangement with him or her or to confer any benefit upon him or her that would be permitted under Article 6.7; or
 - (iv) any other matter relating to a payment or the conferring of any benefit permitted by Article 6.7.
- (c) the Director does not vote on any such matter and is not to be counted when calculating whether a quorum of Directors is present at the meeting;
- (d) save in relation to employing or contracting with the Executive Principal, Principals or any Staff Director the other Directors are satisfied that it is in the interests of the Company to employ or to contract with that Director rather than with someone who is not a Director. In reaching that decision the Directors must balance the advantage of employing a Director against the disadvantages of doing so (especially the loss of the Director's services as a result of dealing with the Director's conflict of interest);
- (e) the reason for their decision is recorded by the Directors in the minute book;

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- (f) A majority of the Directors then in office have received no such payments or benefit.

6.8A. The provision in Article 6.6 (c) that no Director may be employed by or receive any remuneration from the Company (other than the Executive Principal, Principals or any Staff Director) does not apply to an employee of the Company who is subsequently elected or appointed as a Director save that this Article shall only allow such a Director to receive remuneration or benefit from the Company in his capacity as an employee of the Company and provided that the procedure as set out in Articles 6.8(b)(i), (ii) and 6.8 (c) is followed.

6.9. In Articles 6.2-6.9:

- (a) "company" shall include any company in which the Company:
 - (i) holds more than 50% of the shares; or
 - (ii) controls more than 50% of the voting rights attached to the shares; or
 - (iii) has the right to appoint one or more directors to the board of that company.
- (b) "Director" shall include any child, stepchild, parent, grandchild, grandparent, brother, sister or spouse of the Director or any person living with the Director as his or her partner;
- (c) the employment or remuneration of a Director includes the engagement or remuneration of any firm or company in which the Director is:
 - (i) a partner;
 - (ii) an employee;
 - (iii) a consultant;
 - (iv) a director;
 - (v) a member; or

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- (vi) a shareholder, unless the shares of the company are listed on a recognised stock exchange and the Director holds less than 1% of the issued capital.
- 7. The liability of the Members is limited.
- 8. Every Member undertakes to contribute such amount as may be required (not exceeding £10) to the Company's assets if it should be wound up while he or she is a member or within one year after he or she ceases to be a member, for payment of the Company's debts and liabilities before he or she ceases to be a Member, and of the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves.
- 9. If the Company is wound up or dissolved and after all its debts and liabilities (including any under section 2 of the Academies Act 2010) have been satisfied there remains any property it shall not be paid to or distributed among the Members (except to a Member that is itself a charity), but shall be given or transferred (i) to the extent that its objects are exclusively charitable and it is registered as a charity with the Charity Commission to the Trustees, and in so far as effect cannot be given to such provision, then (ii) to some other charity or charities having objects similar to the Object which prohibits the distribution of its or their income and property to an extent at least as great as is imposed on the Company by Article 6 above, chosen by the Members at or before the time of dissolution and if that cannot be done then to some other charitable object.
- 10. No alteration or addition shall be made to or in the provisions of the Articles without the written consents of the Founder Member, the Trustees and the Diocesan Bishop.
- 11. No alteration or addition shall be made to or in the provisions of the Articles which would have the effect:
 - (a) that the Company would cease to be a company to which section 60 of the Companies Act 2006 applies; or
 - (b) that the Company would cease to be a charity; or

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- (c) that the Company ceases to be operated so as to give effect to the Object.

MEMBERS

12. The Founder Member shall be the sole first Member. Thereafter subsequent Members may be appointed as follows:

- (a) any person(s) who may be appointed by the Founder Member under Article 16; and
- (b) any person(s) who may be appointed by the Diocesan Bishop if and to the extent that the circumstances in Article 14 arise.

13. Each of the persons entitled to appoint Members in Article 12 shall have the right from time to time by written notice delivered to the Office to remove any Member appointed by them and to appoint a replacement Member to fill a vacancy whether resulting from such removal or otherwise.

14. If the Founder Member:

- (a) ceases to exist and is not replaced by a successor institution; or
- (b) becomes insolvent or makes any arrangement or composition with its creditors generally

its right to appoint Members under these Articles shall vest in the Diocesan Bishop.

15. Membership will terminate automatically if:

- (a) a Member (which is a corporate entity) ceases to exist and is not replaced by a successor institution;
- (b) a Member (which is an individual) dies or becomes incapable by reason of illness or injury of managing and administering his or her own affairs; or
- (c) a Member becomes insolvent or makes any arrangement or composition with that Member's creditors generally.

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16. The Founder Member may appoint such additional Members as it thinks fit and may remove any such additional Members appointed by it.
- 16A. If and to the extent that the circumstances in Article 14 arise, the Diocesan Bishop may appoint such Members as he thinks fit and may remove any such Members appointed by him.
17. Every person nominated to be a Member shall either sign a written consent to become a Member or sign the register of Members on becoming a Member.
18. Any Member may resign provided that after such resignation the number of Members is not less than one. A Member shall cease to be one immediately on the receipt by the Company of a notice in writing signed by the person or persons entitled to remove him under Articles 13 or 16 or 16A provided that no such notice shall take effect when the number of Members is less than one unless it contains or is accompanied by the appointment of a replacement Member.

GENERAL MEETINGS

19. Number not used.
20. The Directors may call general meetings and, on the requisition of Members pursuant to the provisions of the Companies Act 2006, shall forthwith proceed to convene a general meeting in accordance with that Act. If there are not within the United Kingdom sufficient Directors to call a general meeting, any Director or any Member may call a general meeting.

NOTICE OF GENERAL MEETINGS

21. General meetings shall be called by at least fourteen clear days' notice but a general meeting may be called by shorter notice if it is so agreed by a majority in number of Members having a right to attend and vote and together representing not less than 90% of the total voting rights at that meeting.
- 21A The notice shall specify the time and place of the meeting and the general nature of the business to be transacted and in the case of an Annual General Meeting shall specify the meeting as such. The notice shall also state that the Member is entitled to appoint a proxy.

- 21B The notice shall be given to all the Members, to the Directors and auditors.
22. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at that meeting.

PROCEEDINGS AT GENERAL MEETINGS.

23. No business shall be transacted at any meeting unless a quorum is present. A Member counts towards the quorum by being present either in person or by proxy. Save if the Company has only one Member, two persons entitled to vote upon the business to be transacted, each being a Member or a proxy of a Member or a duly authorised representative of a Member organisation shall constitute a quorum.
24. If a quorum is not present within half an hour from the time appointed for the meeting, or if during a meeting a quorum ceases to be present, the meeting shall stand adjourned to the same day in the next week at the same time and place or to such time and place as the Members present may determine.
25. The person nominated by the Founder Member to chair general meetings of the Members shall preside as chairman of the meeting, but if such chairman is not present within fifteen minutes after the time appointed for holding the meeting and willing to act, the Founder Member shall nominate a person present to be chairman of that meeting.
26. Number not used.
27. A Director shall, notwithstanding that he is not a Member, be entitled to attend and speak at any general meeting.
28. The chairman may, with the consent of a majority of the Members at a meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business which might properly have been transacted at the meeting had the adjournment not taken place. When a meeting is adjourned for fourteen days or more, at least seven clear days' notice shall be given specifying the time and place of the adjourned meeting and the general nature of the business to be transacted. Otherwise it shall not be necessary to give any such notice.

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29. A resolution put to the vote of the meeting shall be decided on a show of hands unless before, or on the declaration of the result of the show of hands, a poll is duly demanded. Subject to the provisions of the Companies Act 2006, a poll may be demanded:-
- (a) by the chairman; or
 - (b) by at least two Members having the right to vote at the meeting; or,
 - (c) by a Member or Members representing not less than one-tenth of the total voting rights of all the Members having the right to vote at the meeting.
30. Unless a poll is duly demanded a declaration by the chairman that a resolution has been carried or carried unanimously, or by a particular majority, or lost, or not carried by a particular majority and an entry to that effect in the minutes of the meeting shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.
31. The demand for a poll may be withdrawn, before the poll is taken, but only with the consent of the chairman. The withdrawal of a demand for a poll shall not invalidate the result of a show of hands declared before the demand for the poll was made.
32. A poll shall be taken as the chairman directs and he may appoint scrutineers (who need not be Members) and fix a time, date and place for declaring the results. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
33. A poll demanded on the election of the chairman or on a question of adjournment shall be taken immediately. A poll demanded on any other question shall be taken either immediately or at such time, date and place as the chairman directs not being more than thirty days after the poll is demanded. The demand for a poll shall not prevent continuance of a meeting for the transaction of any business other than the question on which the poll is demanded. If a poll is demanded before the declaration of the result of a show of hands and the demand is duly withdrawn, the meeting shall continue as if the demand had not been made.

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34. No notice need be given of a poll not taken immediately if the time and place at which it is to be taken are announced at the meeting at which it is demanded. In other cases at least seven clear days' notice shall be given specifying the time and place at which the poll is to be taken.
35. A resolution in writing agreed by such number of Members as required if it had been proposed at a general meeting shall be as effectual as if it had been passed at a general meeting duly convened and held provided that a copy of the proposed resolution has been sent to every Member. The resolution may consist of several instruments in the like form each agreed by one or more Members.

VOTES OF MEMBERS

36. On the show of hands every Member present in person shall have one vote. On a poll every Member present in person or by proxy shall have one vote.
37. Number not used.
38. No Member shall be entitled to vote at any general meeting unless all moneys then payable by him to the Company have been paid.
39. No objections shall be raised to the qualification of any person to vote at any general meeting except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting shall be valid. Any objection made in due time shall be referred to the chairman whose decision shall be final and conclusive.
40. An instrument appointing a proxy shall be in writing, signed by or on behalf of the appointer and shall be in the following form (or in a form as near thereto as circumstances allow or in any other form which is usual or which the Directors may approve) -.

"I/We,, of, being a Member/Members of the above named Company, hereby appoint of, or in his absence, of as my/our proxy to attend, speak and vote in my/our name[s] and on my/our behalf at the annual general meeting/ general meeting of the Company to be held on20[], and at any adjournment thereof.

Signed on 20[]"

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41. Where it is desired to afford Members an opportunity of instructing the proxy how he shall act the instrument appointing a proxy shall be in the following form (or in a form as near thereto as circumstances allow or in any other form which is usual or which the Directors may approve)-

"I/We,, of, being a Member/Members of the above-named Company, hereby appoint of, or in his absence, of, as my/our proxy to attend, speak and vote in my/our name[s] and on my/our behalf at the annual general meeting/ general meeting of the Company, to be held on 20[], and at any adjournment thereof.

This form is to be used in respect of the resolutions mentioned below as follows:

Resolution No. 1 *for * against

Resolution No. 2 *for * against.

- Strike out whichever is not desired.

Unless otherwise instructed, the proxy may vote as he thinks fit or abstain from voting.

Signed on 20[]"

42. The instrument appointing a proxy and any authority under which it is signed or a copy of such authority certified by a notary or in some other way approved by the Directors may:
- (a) be deposited at the office or at such other place within the United Kingdom as is specified in the notice convening the meeting or in any instrument of proxy sent out by the Company in relation to the meeting not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote;
 - (b) in the case of a poll taken more than 48 hours after it is demanded, be deposited as aforesaid after the poll has been demanded and not less than 24 hours before the time appointed for the taking of the poll; or

(c) where the poll is not taken forthwith but is taken not more than 48 hours after it was demanded, be delivered at the meeting at which the poll was demanded to the chairman or to the Clerk or to any Director;

and an instrument of proxy which is not deposited or delivered in a manner so permitted shall be invalid.

43. A vote given or poll demanded by proxy or by the duly authorised representative of a corporation shall be valid notwithstanding the previous determination of the authority of the person voting or demanding a poll unless notice of the determination was received by the Company at the Office or at such other place at which the instrument of proxy was duly deposited before the commencement of the meeting or adjourned meeting at which the vote given or the poll demanded or (or in the case of a poll taken otherwise than on the same day as the meeting or adjourned meeting) the time appointed for taking the poll.
44. Any organisation which is a Member may by resolution of its board of directors or other governing body authorise such person as it thinks fit to act as its representative at any meeting of the Company, and the person so authorised shall be entitled to exercise the same powers on behalf of the organisation which he represents as that organisation could exercise if it were an individual Member.

DIRECTORS

45. The number of Directors of the Company shall be not less than three but (unless otherwise determined by ordinary resolution of the Members) shall not be subject to any maximum.
- 45A. All Directors shall upon their appointment or election give a written undertaking to the Founder Member, the Trustees and the Diocesan Bishop substantially in the form annexed to these Articles of Association to uphold the Object of the Company.
46. Subject to Articles 48 and 49, the Company shall have the following Directors:
- (a) such number of Foundation Directors so as to constitute a majority of the Directors by at least two (2) from time to time and shall be

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appointed under Article 50. No such Foundation Director shall be or become an employee of the Company;

- (b) a maximum of two (2) Staff Directors appointed under Article 50B;
 - (c) two (2) Parent Directors appointed under Articles 53-56B;
 - (d) a maximum of 2 of the Principals of the Academies may be appointed as Directors under Articles 51A and 52;
 - (e) the Executive Principal (if any) appointed in accordance with Article 57A;
47. The Company may also have any Co-opted Director appointed under Article 58.
48. The first Directors shall be those persons named in the statement delivered pursuant to sections 9 and 12 of the Companies Act 2006.
49. Future Directors shall be appointed or elected, as the case may be, under these Articles. Where it is not possible for such a Director to be appointed or elected due to the fact that an Academy has not yet been established or the Executive Principal has not been appointed, then the relevant Article or part thereof shall not apply.

APPOINTMENT OF DIRECTORS

50. The Diocesan Bishop shall appoint Foundation Directors in accordance with Article 46(a) by written notice delivered to the Office.
- 50A. No employee of the Company may be appointed as a Foundation Director and if during the course of his/her appointment the Directors propose to offer that person a contract of employment, upon acceptance of such an appointment that person shall be deemed to have resigned as a Foundation Director.
- 50B. The Directors shall appoint Staff Directors using the process set out in Article 50C and subject to Article 50A but shall ensure that the total number of Directors including any Executive Principal or Principal Directors who are employees of the Company does not exceed one third of the total number of Directors.

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- 50C. In appointing the Staff Directors, the Directors shall hold a secret ballot of all staff employed under a contract of employment or a contract for services or is otherwise engaged to provide services to the Company (excluding the Executive Principal and the Principals). All arrangements for the calling and conduct of the election and resolution of questions as to whether any person is an eligible candidate shall be determined by the Directors.
- 50D. If a Staff Director ceases to work for the Company then he shall be deemed to have resigned and shall cease to be a Director automatically on termination of his work for the Company.

PRINCIPAL DIRECTORS

51. Number not used.
- 51A. Up to two (2) of the Principals of the Academies may be Principal Directors but if the Directors appoint an Executive Principal under Article 57A who is not at the time of his/her appointment already a Principal Director appointed pursuant to this Article 51A then the two appointed Principal Directors shall be deemed to have resigned as Principal Directors immediately before the occurrence of the appointment of the Executive Principal and throughout the period that there is any Executive Principal appointed under Article 57A no Principal Directors shall be appointed.
52. Subject to the appointment of an Executive Principal under Article 57A, if the number of Academies exceeds two (2) the Principals of the Academies may elect two (2) persons from amongst their number to be the Principal Directors. Any person elected in accordance with this Article shall only remain an Academy Director for as long as he remains a Principal of an Academy. The Directors shall make all necessary arrangements for, and determine all other matters relating to, the election of the Principal Directors in accordance with this Article. Any election of the Principal Directors which is contested shall be held by secret ballot.

PARENT DIRECTORS

53. There shall be two (2) Parent Directors appointed or elected.

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54. Parent Directors shall be elected by parents of registered pupils at the Academies. Each elected Parent Director must be a parent of a registered pupil at one of the Academies at the time when he is elected.
- 54A. The number of Parent Directors required shall be made up by Parent Directors appointed by the Directors (in accordance with the terms of reference determined by the Directors from time to time) if the number of parents standing for election is less than the number of vacancies.
55. The Directors shall make all necessary arrangements for, and determine all other matters relating to, an election of the Parent Directors, including any question of whether a person is a parent of a registered pupil at one of the Academies and arrangements for elections of Parent Directors where the number of candidates exceeds the number of vacancies. Any election of the Parent Directors which is contested shall be held by secret ballot.
56. In appointing a Parent Director the Directors shall appoint a person who is the parent of a registered pupil at an Academy, or where it is not reasonably practical to do so, a person who is the parent of a child of compulsory school age.
- 56A. The arrangements made for the election of a Parent Director shall provide for every person who is entitled to vote in the election to have an opportunity to do so by returning his ballot paper by post or by hand to the Office.
- 56B. Where a vacancy for a Parent Director is required to be filled by election, the Directors shall take such steps as are reasonably practical to secure that every person who is known to them to be a parent of a registered pupil at the Academies is informed of the vacancy and that it is required to be filled by election, informed that he is entitled to stand as a candidate, and vote at the election, and given an opportunity to do so.

EXECUTIVE PRINCIPAL

- 57A. After consulting with the Founder Member, the Directors may appoint an Executive Principal for such period and on such remuneration as they may think fit and any Executive Principal may be removed from that position by the Directors.

57. The Executive Principal shall be a Director for as long as he remains in office as such.

CO-OPTED DIRECTORS

58. The Directors may appoint up to three (3) Co-opted Directors by written notice delivered to the Office for such term (not exceeding four years) upon such conditions as they see fit and provided that if any such Directors are appointed the number of Foundation Directors permitted by Article 46 shall increase proportionately to ensure that a majority by at least two (2) of Directors are Foundation Directors. A 'Co-opted Director' means a person who is appointed to be a Director by being Co-opted by Directors who have not themselves been so appointed. The Directors may not co-opt an employee of the Company as a Co-opted Director if thereby the number of Directors who are employees of the Company would exceed one third of the total number of Directors including the Executive Principal.

- 59 - 63. Numbers not used.

TERM OF OFFICE

64. The term of office for any Director shall be 4 years, save that this time limit shall not apply to the Executive Principal or any other post which is held ex officio while such persons remain in those positions and employed by the Company. Subject to remaining eligible to be a particular type of Director, any Director may be re-appointed or re-elected.

RESIGNATION AND REMOVAL

65. A Director shall cease to hold office if he resigns his office by notice to the Company (but only if at least three (3) Directors will remain in office when the notice of resignation is to take effect).
66. A Director shall cease to hold office if he is removed by the person or persons who appointed him. This Article does not apply in respect of a Parent Director.
67. Where a Director resigns his office or is removed from office, or is deemed to have resigned in the circumstances set out in Articles 142 and/or 143, the

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Director or, where he is removed from office, those removing him, shall give written notice thereof to the Clerk sent to the Office.

- 67A. Each of the persons entitled to appoint Directors in Articles 50, 50B, 51A or 58 shall have the right from time to time by written notice delivered to the Office to remove any Director appointed by them and to appoint a replacement Director to fill a vacancy whether resulting from such removal or otherwise.

DISQUALIFICATION OF DIRECTORS

68. No person shall be qualified to be a Director unless he is aged 18 or over at the date of his election or appointment. No current pupil or current student of any of the Academies shall be a Director.
69. A Director shall cease to hold office if he becomes incapable by reason of illness or injury of managing or administering his own affairs.
70. A Director shall cease to hold office if he is absent without the permission of the Directors from all their meetings held within a period of six months and the Directors resolve that his office be vacated.
71. A person shall be disqualified from holding or continuing to hold office as a Director if:-
- (a) his estate has been sequestrated and the sequestration has not been discharged, annulled or reduced; or
 - (b) he is the subject of a bankruptcy restrictions order or an interim order.
72. A person shall be disqualified from holding or continuing to hold office as a Director at any time when he is subject to a disqualification order or a disqualification undertaking under the Company Directors Disqualification Act 1986 or to an order made under section 429(2)(b) of the Insolvency Act 1986 (failure to pay under county court administration order).
73. A Director shall cease to hold office if he ceases to be a Director by virtue of any provision in the Companies Act 2006 or is disqualified from acting as a trustee by virtue of section 178 of the Charities Act 2011.

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74. A person shall be disqualified from holding or continuing to hold office as a Director if he has been removed from the office of charity trustee or trustee for a charity by an order made by the Charity Commission or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity for which he was responsible or to which he was privy, or which he by his conduct contributed to or facilitated.
75. Number not used.
76. Number not used.
77. A person shall be disqualified from holding or continuing to hold office as a Director where he has, at any time, been convicted of any criminal offence, excluding any that have been spent under the Rehabilitation of Offenders Act 1974 as amended, and excluding any offence for which the maximum sentence is a fine or a lesser sentence except where a person has been convicted of any offence which falls under section 178 of the Charities Act 2011.
78. After the first Academy has opened, a person shall be disqualified from holding or continuing to hold office as a Director if he has not provided to the chairman of the Directors a criminal records certificate at an enhanced disclosure level under section 113B of the Police Act 1997. In the event that the certificate discloses any information which would in the opinion of either the chairman of the Directors or the Executive Principal confirm their unsuitability to work with children that person shall be disqualified. If a dispute arises as to whether a person shall be disqualified, a referral shall be made to the Secretary of State to determine the matter. The determination of the Secretary of State shall be final.
79. Where, by virtue of these Articles a person becomes disqualified from holding, or continuing to hold office as a Director; and he is, or is proposed, to become such a Director, he shall upon becoming so disqualified give written notice of that fact to the Clerk.

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80. Articles 68 to 74, Articles 77 to 79 and Articles 97 to 98 also apply to any member of any committee of the Directors, including a Academy Committee, who is not a Director.

CLERK TO THE DIRECTORS

81. The Clerk shall be appointed by the Directors for such term, at such remuneration and upon such conditions as they may think fit; and any Clerk so appointed may be removed by them. The Clerk shall not be a Director or a Principal. Notwithstanding this Article, the Directors may, where the Clerk fails to attend a meeting of theirs, appoint any one of their number or any other person to act as Clerk for the purposes of that meeting.

CHAIRMAN AND VICE-CHAIRMAN OF THE DIRECTORS

82. The Directors shall each school year elect a chairman and a vice-chairman from among their number. A Director who is employed by the Company shall not be eligible for election as chairman or vice-chairman.
83. Subject to Article 84, the chairman or vice-chairman shall hold office as such until his successor has been elected in accordance with Article 85.
84. The chairman or vice-chairman may at any time resign his office by giving notice in writing to the Clerk at the Office. The chairman or vice-chairman shall cease to hold office if:
- (a) he ceases to be a Director;
 - (b) he is employed by the Company;
 - (c) he is removed from office in accordance with these Articles; or
 - (d) in the case of the vice-chairman, he is elected in accordance with these Articles to fill a vacancy in the office of chairman.
85. Where by reason of any of the matters referred to in Article 84, a vacancy arises in the office of chairman or vice-chairman, the Directors shall at their next meeting elect one of their number to fill that vacancy.

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86. Where the chairman is absent from any meeting or there is at the time a vacancy in the office of the chairman, the vice-chairman shall act as the chair for the purposes of the meeting.
87. Where in the circumstances referred to in Article 86 the vice-chairman is also absent from the meeting or there is at the time a vacancy in the office of vice-chairman, the Directors shall elect one of their number to act as a chairman for the purposes of that meeting, provided that the Director elected shall not be a person who is employed by the Company.
88. Number not used.
89. Any election of the chairman or vice-chairman which is contested shall be held by secret ballot.
90. The Directors may remove the chairman or vice-chairman from office in accordance with these Articles.
91. A resolution to remove the chairman or vice-chairman from office which is passed at a meeting of the Directors shall not have effect unless:
- (a) it is confirmed by a resolution passed at a second meeting of the Directors held not less than fourteen days after the first meeting; and
 - (b) the matter of the chairman's or vice-chairman's removal from office is specified as an item of business on the agenda for each of those meetings.
92. Before the Directors resolve at the relevant meeting on whether to confirm the resolution to remove the chairman or vice-chairman from office, the Director or Directors proposing his removal shall at that meeting state their reasons for doing so and the chairman or vice-chairman shall be given an opportunity to make a statement in response.

POWERS OF DIRECTORS

93. Subject to provisions of the Companies Act 2006, the Articles and to any directions given by special resolution, the business of the Company shall be managed by the Directors who may exercise all the powers of the Company. No alteration of the Articles and no such direction shall invalidate any prior act

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of the Directors which would have been valid if that alteration had not been made or that direction had not been given. The powers given by this Article shall not be limited by any special power given to the Directors by the Articles and a meeting of Directors at which a quorum is present may exercise all the powers exercisable by the Directors.

94. In addition to all powers hereby expressly conferred upon them and without detracting from the generality of their powers under the Articles the Directors shall have the following powers, namely:

- (a) to expend the funds of the Company in such manner as they shall consider most beneficial for the achievement of the Object and to invest in the name of the Company such part of the funds as they may see fit and to direct the sale or transposition of any such investments and to expend the proceeds of any such sale in furtherance of the Object;
- (b) to enter into contracts on behalf of the Company.

95. In the exercise of their powers and functions, the Directors may consider any advice given by the Executive Principal and any other executive officer.

96. Any bank account in which any money of the Company is deposited shall be operated by the Directors in the name of the Company. All cheques and orders for the payment of money from such an account shall be signed by at least two signatories authorised by the Directors.

CONFLICTS OF INTEREST

97. Any Director who has or can have any direct or indirect duty or personal interest (including but not limited to any Personal Financial Interest) which conflicts or may conflict with his duties as a Director shall disclose that fact to the Directors as soon as he becomes aware of it. A Director must absent himself from any discussions of the Directors in which it is possible that a conflict will arise between his duty to act solely in the interests of the Company and any duty or personal interest (including but not limited to any Personal Financial Interest).

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98. For the purpose of Article 97, a Director has a Personal Financial Interest in the employment or remuneration of, or the provision of any other benefit to, that Director as permitted by and as defined by Articles 6.5-6.9.

THE MINUTES

99. The minutes of the proceedings of a meeting of the Directors shall be drawn up and entered into a book kept for the purpose by the person acting as Clerk for the purposes of the meeting; and shall be signed (subject to the approval of the Directors) at the same or next subsequent meeting by the person acting as chairman thereof.

COMMITTEES

100. Subject to these Articles, the Directors:
- (a) may appoint separate committees to be known as Academy Committees for each Academy and the Directors shall be free to appoint one committee for several Academies if they so wish; and
 - (b) may establish any other committee that will contribute to the effective performance of the Company and/or any Academy.
101. Subject to these Articles, the constitution, membership and proceedings of any committee shall be determined by the Directors. The establishment, terms of reference, constitution and membership of any committee of the Directors shall be reviewed at least once in every twelve months. The membership of any committee of the Directors may include persons who are not Directors, provided that (with the exception of the Academy Committees) a majority of members of any such committee shall be Directors. Except in the case of a Academy Committee, no vote on any matter shall be taken at a meeting of a committee of the Directors unless the majority of members of the committee present are Directors.
102. The power of delegation exercised under Article 105 in relation to the establishment of an Academy Committee for an Academy shall be by way of Scheme of Delegation. The Scheme of Delegation to be put in place for each Academy following incorporation shall be as the Scheme of Delegation attached to these Articles.

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103. Each person appointed or elected to be an Academy Representative of any type shall prior to taking up his position as an Academy Representative and voting on any matter at a meeting of the Academy Committee give a written undertaking to the Directors, the Trustees, the Diocesan Bishop and the Founder Member to uphold the Object of the Academy Trust in the form of the deed of adherence annexed to the relevant Scheme of Delegation.
104. Number not used.

DELEGATION

105. The Directors may delegate to any Director, committee (including any Academy Committee), the Executive Principal or any other holder of an executive office, such of their powers or functions as they consider desirable to be exercised by them. Any such delegation shall be made subject to any conditions the Directors may impose, and may be revoked or altered.
106. Where any power or function of the Directors has been exercised by any committee (including any Academy Committee), any Director, the Executive Principal or any other holder of an executive office, that person or committee shall report to the Directors in respect of any action taken or decision made with respect to the exercise of that power or function at the meeting of the Directors immediately following the taking of the action or the making of the decision.

EXECUTIVE PRINCIPAL AND PRINCIPALS

107. After consultation with the Founder Member, the Directors shall appoint the Principals of the Academies. The Directors may delegate such powers and functions as they consider are required by the Executive Principal (if appointed) and the Principals for the internal organisation, management and control of the Academies (including the implementation of all policies approved by the Directors and for the direction of the teaching and curriculum at the Academies).

MEETINGS OF THE DIRECTORS

108. Subject to these Articles, the Directors may regulate their proceedings as they think fit.

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109. The Directors shall hold at least three meetings in every school year. Meetings of the Directors shall be convened by the Clerk. In exercising his functions under this Article the Clerk shall comply with any direction:
- (a) given by the Directors; or
 - (b) given by the chairman of the Directors or, in his absence or where there is a vacancy in the office of chairman, the vice-chairman of the Directors, so far as such direction is not inconsistent with any direction given as mentioned in (a).
110. Any three Directors may, by notice in writing given to the Clerk, requisition a meeting of the Directors; and it shall be the duty of the Clerk to convene such a meeting as soon as is reasonably practicable.
111. Each Director shall be given at least seven clear days before the date of a meeting:
- (a) notice in writing thereof, signed by the Clerk, and sent to each Director at the address provided by each Director from time to time; and
 - (b) a copy of the agenda for the meeting;
- provided that where the chairman or, in his absence or where there is a vacancy in the office of chairman, the vice-chairman, so determines on the ground that there are matters demanding urgent consideration, it shall be sufficient if the written notice of a meeting, and the copy of the agenda thereof are given within such shorter period as he directs.
112. The convening of a meeting and the proceedings conducted thereat shall not be invalidated by reason of any individual not having received written notice of the meeting or a copy of the agenda thereof.
113. A resolution to rescind or vary a resolution carried at a previous meeting of the Directors shall not be proposed at a meeting of the Directors unless the consideration of the rescission or variation of the previous resolution is a specific item of business on the agenda for that meeting.
114. A meeting of the Directors shall be terminated forthwith if:
- (a) the Directors so resolve; or

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- (b) the number of Directors present ceases to constitute a quorum for a meeting of the Directors in accordance with Article 117, subject to Article 119.
115. Where in accordance with Article 114 a meeting is not held or is terminated before all the matters specified as items of business on the agenda for the meeting have been disposed of, a further meeting shall be convened by the Clerk as soon as is reasonably practicable, but in any event within seven days of the date on which the meeting was originally to be held or was so terminated.
116. Where the Directors resolve in accordance with Article 114 to adjourn a meeting before all the items of business on the agenda have been disposed of, the Directors shall before doing so determine the time and date at which a further meeting is to be held for the purposes of completing the consideration of those items, and they shall direct the Clerk to convene a meeting accordingly.
117. Subject to Article 119, the quorum for a meeting of the Directors, and any vote on any matter thereat, shall be any three Directors, or, where the total number of Directors is greater than nine, any one third (rounded up to a whole number) of the total number of Directors holding office at the date of the meeting.
118. The Directors may act notwithstanding any vacancies in their number, but, if the numbers of Directors is less than the number fixed as the quorum, the continuing Directors may act only for the purpose of filling vacancies or of calling a general meeting.
119. The quorum for the purposes of:
- (a) appointing a Parent Director under Articles 56;
 - (b) any vote on the removal of a Director in accordance with Article 66;
 - (c) any vote on the removal of the chairman of the Directors in accordance with Article 90;

shall be any two-thirds (rounded up to a whole number) of the persons who are at the time Directors entitled to vote on those respective matters.

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120. Subject to these Articles, every question to be decided at a meeting of the Directors shall be determined by a majority of the votes of the Directors present and voting on the question. Every Director shall have one vote.
121. Subject to Articles 117-119, where there is an equal division of votes, the chairman of the meeting shall have a casting vote in addition to any other vote he may have.
122. The proceedings of the Directors shall not be invalidated by
- (a) any vacancy among their number; or
 - (b) any defect in the election, appointment or nomination of any Director.
123. A resolution in writing, signed by all the Directors entitled to receive notice of a meeting of Directors or of a committee of Directors, shall be valid and effective as if it had been passed at a meeting of Directors or (as the case may be) a committee of Directors duly convened and held. Such a resolution may consist of several documents in the same form, each signed by one or more of the Directors.
124. Subject to Article 125, the Directors shall ensure that a copy of:
- (a) the agenda for every meeting of the Directors;
 - (b) the draft minutes of every such meeting, if they have been approved by the person acting as chairman of that meeting;
 - (c) the signed minutes of every such meeting; and
 - (d) any report, document or other paper considered at any such meeting,
- are, as soon as is reasonably practicable, made available at every Academy to persons wishing to inspect them.
125. There may be excluded from any item required to be made available in pursuance of Article 124, any material relating to:-
- (a) a named teacher or other person employed, or proposed to be employed, at any Academy;

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- (b) a named pupil or named student at, or candidate for admission to, any Academy; and
 - (c) any matter which, by reason of its nature, the Directors are satisfied should remain confidential.
126. Any Director shall be able to participate in meetings of the Directors by telephone or video conference provided that:
- (a) he has given notice of his intention to do so detailing the telephone number on which he can be reached and/or appropriate details of the video conference suite from which he shall be taking part at the time of the meeting at least 48 hours before the meeting; and
 - (b) the Directors have access to the appropriate equipment if after all reasonable efforts it does not prove possible for the person to participate by telephone or video conference the meeting may still proceed with its business provided it is otherwise quorate.

PATRONS AND HONORARY OFFICERS

127. The Directors may from time to time appoint any person whether or not a Member to be a patron of the Company or to hold any honorary office and may determine for what period he is to hold such office.

THE SEAL

128. The seal, if any, shall only be used by the authority of the Directors or of a committee of Directors authorised by the Directors. The Directors may determine who shall sign any instrument to which the seal is affixed and unless otherwise so determined it shall be signed by any two Directors.

ACCOUNTS

129. Without prejudice to the Company's obligations to prepare non-exempt charity accounts and file these with the Secretary of State and the Principal Regulator as set out in the Master Funding Agreement, the Company's annual accounts shall be prepared and filed in accordance with the relevant and appropriate Statement of Recommended Practice in force from time to time and parts 15 and 16 of the Companies Act 2006.

ANNUAL REPORT

130. Without prejudice to the Company's obligations to prepare an annual report and file it with the Secretary of State and the Principal Regulator as set out in the Master Funding Agreement, to the extent required by law, the Directors shall submit to the Registrar of Companies the Company's annual report prepared in accordance with the relevant and appropriate Statement of Recommended Practice in force from time to time.

ANNUAL RETURN

131. The Directors shall comply with their obligations under Part 24 of the Companies Act 2006 with regard to the preparation and submission of an annual return to the Registrar of Companies.

NOTICES

132. Any notice to be given to or by any person pursuant to the Articles (other than a notice calling a meeting of the Directors) shall be in writing or shall be given using electronic communications to an address for the time being notified for that purpose to the person giving the notice. In these Articles, "Address" in relation to electronic communications, includes a number or address used for the purposes of such communications.
133. A notice may be given by the Company to a Member either personally or by sending it by post in a prepaid envelope addressed to the Member at his registered address or by leaving it at that address or by giving it using electronic communications to an address for the time being notified to the Company by the Member. A Member whose registered address is not within the United Kingdom and who gives to the Company an address within the United Kingdom at which notices may be given to him, or an address to which notices may be sent using electronic communications, shall be entitled to have notices given to him at that address or addresses, but otherwise no such Member shall be entitled to receive any notice from the Company.
134. A Member present, either in person or by proxy, at any meeting of the Company shall be deemed to have received notice of the meeting and, where necessary, of the purposes for which it was called.

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135. Proof that an envelope containing a notice was properly addressed, prepaid and posted shall be conclusive evidence that the notice was given. Proof that a notice contained in an electronic communication was sent in accordance with guidance issued by the Institute of Chartered Secretaries and Administrators shall be conclusive evidence that the notice was given. A notice shall be deemed to be given at the expiration of 48 hours after the envelope containing it was posted or, in the case of a notice contained in an electronic communication, at the expiration of 48 hours after the time it was sent.

INDEMNITY

136. Subject to the provisions of the Companies Act 2006 and Article 6.3 every Director or former Director and any member of any Academy Committee and any other officer and the auditor of the Company shall be indemnified out of the assets of the Company against any liability incurred by him in that capacity in the actual or purported execution and/or discharge of his duties or in relation to them, including in each case defending any proceedings, whether civil or criminal, in which judgment is given in favour or in which he is acquitted or in connection with any application in which relief is granted to him by the court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Company.

RULES

137. The Directors may from time to time make such rules or bye laws as they may deem necessary or expedient or convenient for the proper conduct and management of the Company and in particular but without prejudice to the generality of the foregoing, they may by such rules or bye laws regulate:
- (a) Number not used;
 - (b) subject to any agreement between the Members, the conduct of Members of the Company in relation to one another, and to the Company's servants;
 - (c) the setting aside of the whole or any part or parts of the Company's premises at any particular time or times or for any particular purpose or purposes;

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- (d) the procedure at general meetings and meetings of the Directors and committees of the Directors and meetings of the Academy Committees in so far as such procedure is not regulated by the Articles and/or the Scheme of Delegation; and,
 - (e) generally, all such matters as are commonly the subject matter of company rules.
138. The Company in general meeting shall have power to alter, add or to repeal the rules or bye laws and the Directors shall adopt such means as they think sufficient to bring to the notice of Members all such rules or bye laws, which shall be binding on all Members. Provided that no rule or bye law shall be inconsistent with, or shall affect or repeal anything contained in the Articles.

AVOIDING INFLUENCED COMPANY STATUS

139. Notwithstanding the number of Members from time to time, the maximum aggregate number of votes exercisable by Local Authority Associated Persons shall never exceed 19.9% of the total number of votes exercisable by Members in general meeting and the votes of the other Members having a right to vote at the meeting will be increased on a pro-rata basis so as to give effect to this Article 139.
140. No person who is a Local Authority Associated Person may be appointed as a Director if, once the appointment had taken effect, the number of Directors who are Local Authority Associated Persons would represent 20% or more of the total number of Directors. Upon any resolution put to the Directors, the maximum aggregate number of votes exercisable by any Directors who are Local Authority Associated Persons shall represent a maximum of 19.9% of the total number of votes cast by the Directors on such a resolution and the votes of the other Directors having a right to vote at the meeting will be increased on a pro-rata basis so as to give effect to this Article 140.
141. No person who is a Local Authority Associated Person is eligible to be appointed to the office of Director unless his appointment to such office is authorised by the local authority to which he is associated.
142. If at the time of either his becoming a Member of the Company or his first appointment to office as a Director any Member or Director was not a Local

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Authority Associated Person but later becomes so during his membership or tenure as a Director he shall be deemed to have immediately resigned as a Member and/or resigned from his office as a Director as the case may be.

143. If at any time the number of Directors or Members who are also Local Authority Associated Persons would (but for Articles 139 to 142 inclusive) represent 20% or more of the total number of Directors or Members (as the case may be) then a sufficient number of the Directors or Members (as the case may be) who are Local Authority Associated Persons shall be deemed to have resigned as Directors or Members (as the case may be) immediately before the occurrence of such an event to ensure that at all times the number of such Directors or Members (as the case may be) is never equal to or greater than 20% of the total number of Directors or Members (as the case may be). Directors or Members (as the case may be) who are Local Authority Associated Persons shall be deemed to have resigned in order of their appointment date the most recently appointed resigning first.
144. The Members will each notify the Company and each other if at any time they believe that the Company or any of its subsidiaries has become subject to the influence of a local authority (as described in section 69 of the Local Government and Housing Act 1989).

Annexure 1

Scheme of Delegation

Catholic Multi-Academy Model

THE ST JOHN BOSCO CATHOLIC ACADEMY

And

BISHOP MILNER CATHOLIC SCHOOL

SCHEME OF DELEGATION

EFFECTIVE DATE: 2013

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THIS DEED is dated

2013

PARTIES

1. **THE ST JOHN BOSCO CATHOLIC ACADEMY** (the "Company")
2. The Academy Representatives of **BISHOP MILNER CATHOLIC SCHOOL** (which are individually referred to in this agreement as an Academy Representative (of any type) and collectively referred to as "Academy Representatives or as the "Academy Committee". Those terms shall include all successor, replacement and additional Academy Representatives of Bishop Milner Catholic School);
3. The Founder Member; and
4. The Diocesan Bishop.

1. BACKGROUND

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

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

- 1.4. This document, known as a "Scheme of Delegation" and referred to throughout the rest of this document as "the Scheme", explains the ways in which the Directors fulfil their responsibilities for the governance, leadership and management of this Academy.
- 1.5. Except as expressly provided in this Scheme, words and expressions as defined in the Articles or in the Master Funding Agreement or in the Supplemental Funding Agreement relevant to this Academy shall have the same meanings in this Scheme as is ascribed to them in those documents. References in this Scheme to numbered Articles are to the relevant clause of the Articles.
- 1.6. Any reference to a statute or a statutory provision shall include any statute or statutory provision which replaces or supersedes such statute or statutory provision including any modification or amendment thereto.

2. AGREED TERMS

- 2.1. From the Effective Date stated on page one of this Scheme, Bishop Milner Catholic School is a Catholic Academy established by the Company ("the Academy") and the persons listed in Schedule 1 of this Scheme of Delegation are the first Academy Representatives appointed to serve on the Academy Committee for Bishop Milner Catholic School.
- 2.2. This Scheme is a binding legal agreement between the Company (acting by its Directors from time to time), the Founder Member, the Diocesan Bishop and the Academy Representatives of the Academy setting out their respective roles and responsibilities and the commitments to each other to ensure the success of the

Academy. The Scheme has been put in place in accordance with the provisions of the Company's Articles of Association (the "Articles") and it should be read in conjunction with those Articles.

2.3. Each of the Academy Representatives hereby acknowledges that they have been provided with, have read and understood the terms of:

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

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

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

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

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

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

3. MISSION

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

3.2. By putting Christ and the teaching of the Catholic Church at the centre of the educational enterprise the Academy roots: pupils' spiritual, moral, social and cultural development; the quality of teaching and learning; and the formation of culture and of our society, in Him¹.

3.3. This educative mission is pursued through the Academy's interaction with all other academies in the communion, the local Church, families, the wider educational community and society at large.

3.4. The Academy shall collaborate with other academies in the Company and also co-operate with: other Catholic schools and academies; other local schools; charities; statutory bodies; and voluntary bodies based on the call of the Gospel, to serve those in need.

4. DIRECTORS' POWERS AND RESPONSIBILITIES

4.1. The Directors have a duty to act in the fulfilment of the Company's objects. The Directors also have a duty to the Founder Member to uphold the Object of the Company and to have regard to any advice of the Founder Member and/or the Diocesan Bishop and to follow any directives issued by them.

4.2. The Directors have overall responsibility and ultimate decision making authority for all the work of the Company, including the establishing and running of the academies and in particular this Academy as a Catholic school. This is largely exercised through setting policy and strategic planning. It is managed through setting up a strategic framework for running, improving, building capacity and securing the future of the academies both collectively and

¹ Christ at the Centre by Rev Marcus Stock STL MA
Birmingham Archdiocese Catholic Multi Academy Model Scheme of Delegation
14.06.13

individually by:

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

4.6.1. Secure the mission shared by all of the academies, drive strategy to provide quality Catholic education across the communities of each of the academies and, by working in communion, give witness to the Catholic faith in action;

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

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

4.7. The Directors' core committees will focus on:

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

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

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

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

Academy Committee to contribute to the running of the Academy and fulfil the Academy's mission.

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

5. THE ACADEMY REPRESENTATIVES

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

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

- 5.2.1. secure the quality of Catholic education;
- 5.2.2. strengthen the Church; and
- 5.2.3. benefit the common good in accordance with the message of the Gospel.

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

- 5.3.1. strengthen the voice of the local Catholic community in determining the strategic direction of the Academy;
- 5.3.2. build parental and parish commitment to the Academy;
- 5.3.3. protect the history and traditions of the Academy in a changing educational landscape.

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

6. CONSTITUTION OF THE ACADEMY COMMITTEE

6.1. Members of the Academy Committee

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

- 6.1.2. The Academy Committee shall include the following types of Academy Representatives:

6.1.2.1. A minimum of seven (7) Academy Foundation Representatives, appointed under clause 6.2.1 or such greater number as shall be appointed by the Diocesan Bishop so that at all times the number of Academy Foundation Representatives constitutes a majority of the Academy Representatives serving on the Academy Committee by at least two (2);

6.1.2.2. two (2) Academy Staff Representatives, elected or appointed under clause 6.2.3 and 6.2.4;

6.1.2.3. a maximum of two (2) Academy Parent Representatives elected or appointed under clause 6.2.6;

6.1.2.4. the Principal of the Academy; and

6.1.2.5. any other Academy Representatives appointed by the Directors from time to time ("Academy Additional Representatives").

- 6.1.3. The Directors (all or any of them) shall also be entitled to serve on the Academy Committee and attend any meetings of the Academy Committee. Any Director attending a meeting of the Academy Committee shall count towards the quorum for the purposes of the meeting and shall be entitled to vote on any resolution being considered by the Academy Committee.

- 6.1.4. Each person appointed or elected to be an Academy Representative of any type shall prior to taking up his position as an Academy Representative and voting on any matter at a meeting of the Academy Committee either execute this Scheme as a deed in the case of the original appointees as Academy Representatives or enter into a Deed of Adherence in the form annexed as Schedule 2 to the

Scheme.

6.1.5. During his term as an Academy Representative any such Academy Representative may be appointed as a Director of the Company pursuant to the Articles.

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

6.2.1. The Diocesan Bishop shall appoint at least seven (7) persons to serve on the Academy Committee as Academy Foundation Representatives by written notice delivered to the clerk to the Academy Committee, having regard to any recommendations and views of the Directors in relation to ensuring that the people serving on the Academy Committee between them have an appropriate range of skills and experience and due attention is given to succession planning.

6.2.2. Prior to taking up his position as an Academy Foundation Representative and voting on any matter at a meeting of the Academy Committee, each Academy Foundation Member shall, in addition to executing the Deed of Adherence referred to in clause 6.1.4 above, give a written undertaking to the Diocesan Bishop substantially in the form annexed as Appendix A.

6.2.3. Without taking into account the Principal, if the number of employees at the Academy is one or two, those employees shall by virtue of their employment be the Staff Academy Representatives.

6.2.4. Without taking into account the Principal, if the number of employees at the Academy exceeds two, the staff of the Academy (excluding the Principal) shall elect two of their number to serve on the Academy Committee through such process as they may determine, provided that the total number of such persons (including the Principal) does not exceed one third of the total number of persons on the Academy Committee. The positions held by those employed at the Academy (e.g. teaching and non-teaching) may be taken into account when considering nominations.

6.2.5. The Principal of the Academy shall be treated for all purposes as being an ex officio member of the Academy Committee.

6.2.6. Subject to clause 6.2.10 the Academy Parent Representatives to the Academy Committee shall be elected by parents of registered pupils at the Academy and he must be a parent of a pupil at the Academy at the time when he is elected.

6.2.7. The Academy Committee shall make all necessary arrangements for, and determine all other matters relating to, an election of an Academy Parent Representative to the Academy Committee, including any question of whether a person is a parent of a registered pupil at the Academy and arrangements for elections of Academy Parent Representatives to the Academy Committee where the number of candidates exceeds the number of vacancies.

6.2.8. The arrangements made for the election of an Academy Parent Representative to the Academy Committee shall provide for every person who is entitled to vote in the election to have an opportunity to do so by returning his ballot paper by post or by hand to the clerk of the Academy Committee.

6.2.9. Where a vacancy for an Academy Parent Representative to the Academy Committee is required to be filled by election, the Academy Committee shall take such steps as are reasonably practical to secure that every person who is known to them to be a parent of a registered pupil at the Academy is informed of the vacancy and that it is required to be filled by election, informed that he is entitled to stand as a candidate, and vote at the election, and given an opportunity to do so.

6.2.10. The required number of Academy Parent Representatives to the Academy Committee shall be made up by persons appointed by the Academy Committee if the number of parents standing for election is less than the number of vacancies.

6.3. **Term of Office**

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

6.4. Resignation and Removal

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

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

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

6.4.4. Where a person who serves on the Academy Committee resigns his office or is removed from office, that person or, where he is removed from office, those removing him, shall give written notice

thereof to the clerk of the Academy Committee who shall inform the Directors and the Diocesan Bishop.

6.5. Disqualification of Members of the Academy Committee

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

6.5.2. A person serving on the Academy Committee shall cease to hold office if he becomes incapable by reason of illness or injury of managing or administering his own affairs.

6.5.3. A person serving on the Academy Committee shall cease to hold office if he is absent without the permission of the chairman of the Academy Committee from all the meetings of the Academy Committee held within a period of six months and the Academy Committee resolves that his office be vacated.

6.5.4. A person shall be disqualified from serving on the Academy Committee if:

6.5.4.1. his estate has been sequestrated and the sequestration has not been discharged, annulled or reduced; or

6.5.4.2. he is the subject of a bankruptcy restrictions order or an interim order.

6.5.5. A person shall be disqualified from serving on the Academy Committee at any time when he is subject to a disqualification order or a disqualification undertaking under the Company Directors Disqualification Act 1986 or to an order made under section 429(2)(b) of the Insolvency Act 1986 (failure to pay under county court administration order).

6.5.6. A person serving on the Academy Committee shall cease to hold office if he would cease to be a director by virtue of any provision in the Companies Act 2006 or is disqualified from acting as a trustee

by virtue of section 178 of the Charities Act 2011.

- 6.5.7. A person shall be disqualified from serving on the Academy Committee if he has been removed from the office of charity trustee or trustee for a charity by an order made by the Charity Commission or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity for which he was responsible or to which he was privy, or which he by his conduct contributed to or facilitated.
- 6.5.8. A person shall be disqualified from serving on the Academy Committee where he has, at any time, been convicted of any criminal offence, excluding any that have been spent under the Rehabilitation of Offenders Act 1974 as amended, and excluding any offence for which the maximum sentence is a fine or a lesser sentence except where a person has been convicted of any offence which falls under section 178 of the Charities Act 2011.
- 6.5.9. A person shall be disqualified from serving on the Academy Committee if he refuses to execute this Scheme and/or a Deed of Adherence in substantially the form set out in Schedule 2 within 10 days of his appointment and delivers the same to the clerk of the Academy Committee.
- 6.5.10. After the Academy has opened, a person shall be disqualified from serving on the Academy Committee if he has not provided to the chairman of the Academy Committee a criminal records certificate at an enhanced disclosure level under section 113B of the Police Act 1997. In the event that the certificate discloses any information which would, in the opinion of either the chairman or the Principal, confirm his unsuitability to work with children that person shall be disqualified. If a dispute arises as to whether a person shall be disqualified, a referral shall be made to the Secretary of State to determine the matter. The determination of the Secretary of State shall be final.
- 6.5.11. Where, by virtue of this Scheme, a person becomes disqualified

from serving on the Academy Committee; and he was, or was proposed, to so serve, he shall upon becoming so disqualified give written notice of that fact to the clerk of the Academy Committee who shall inform the Directors and the Diocesan Bishop.

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

7. DELEGATED POWERS

7.1. General Provisions

- 7.1.1. Subject to the provisions of the Companies Act 2006, the Articles and to any directions given by the Members by special resolution, and/or to any Policies and/or directives issued by or on behalf of the Diocesan Bishop, the Directors may delegate functions to the Academy Committee who may exercise the powers of the Company in so far as they relate to the Academy, in accordance with the terms of this Scheme. No alteration of the Articles and no such direction shall invalidate any prior act of the Academy Committee which would have been valid if that alteration had not been made or that direction had not been given. Except as provided for in this Scheme, the powers given by this Scheme shall not be limited by any special power given to the Directors by the Articles or to the Academy Committee by this Scheme and a meeting of the Academy Committee at which a quorum is present may exercise all the powers so delegated.
- 7.1.2. In general terms, the responsibility of the Directors in so far as the business of the Academy is concerned is to: set the strategic direction; determine the policy and procedures of the Academy; hold the Academy to account and provide challenge and support to the Principal. The Directors are free to decide what constitutes a strategic issue, having regard to all the circumstances.
- 7.1.3. The Directors shall delegate functions to the Academy Committee that relate to:

- 7.1.3.1. the Catholic life;
 - 7.1.3.2. the day-to-day life of the Academy; the health and safety arrangements; the implementation of the Academy's curriculum plans; the arrangements for teaching and learning;
 - 7.1.3.3. the culture and traditions of the Academy as a unique community with a specific school, parish, community and locality, identity and history;
 - 7.1.3.4. communication and the appropriate formation of relationships with parents of pupils attending the Academy to work with and support them in their role as primary educators of their children;
 - 7.1.3.5. engagement with the parish priest and local Church and parish community to work with and support them as they contribute to the religious, spiritual, moral, social and cultural formation of the pupils in the school;
 - 7.1.3.6. relationships with other local schools, agencies and businesses, as well as the wider neighbourhood community, that enhances the quality of education provided by the Academy for its pupils;
 - 7.1.3.7. providing evaluative feedback and supporting evidence to the Directors on the impact and effectiveness of both the Company's and the Academy's collective and individual: aims and objectives; policies; targets; and plans.
- 7.1.4. In the exercise of its powers and functions, the Academy Committee may consider any advice given by the Principal and the Directors and the Diocesan Bishop.
- 7.1.5. At all times, the Directors and the Academy Committee shall ensure that the Academy is conducted in accordance with the Object, the terms of the documents listed in sub-clauses 2.1.1 to 2.1.5 inclusive, the Policies referred to in clause 8.2 of this Scheme and any other agreement entered into by the Directors with the

Secretary of State for the funding of the Academy.

7.2. **Finance**

- 7.2.1. In acknowledgement of the receipt by the Company of funds in relation to the Academy, provided by the Secretary of State, donated to the Company and generated from the activities of the Company, the Directors delegate to the Academy Committee the responsibility to manage and expend all monies received on account of the Academy for the purposes of the Academy less an amount to be determined each year by the Directors acting reasonably in order to benefit all the academies working collaboratively.
- 7.2.2. The accounts of the Company shall be the responsibility of the Directors but the Academy Committee shall provide such information about the finances of the Academy as often and in such format as the Directors shall reasonably require. Without prejudice to the above, the Academy Committee shall provide monthly management accounts to the Directors.
- 7.2.3. The Academy Committee shall ensure that proper procedures are put in place for the safeguarding of funds and that the requirements of the Academies Financial Handbook are observed at all times as well as any requirements and recommendations of the Directors and the Secretary of State.
- 7.2.4. The Academy Committee shall inform the Directors and the Founder Member of any need for significant unplanned expenditure and will discuss with the Directors (and others as the Directors shall require) options for identifying available funding.
- 7.2.5. The Academy Committee shall develop appropriate risk management strategies and shall at all times adopt financial prudence in managing the financial affairs of the Company in so far as these relate to the Academy.
- 7.2.6. Both the Company and the Academy Committee acknowledge that neither the Diocesan Bishop nor the Diocesan Trustees have any

financial responsibility for the Company or the Academy in any situation and that the Founder Member's financial responsibilities are as set out in the Articles.

7.3. Premises

7.3.1. Subject to and without prejudice to clause 7.4, the maintenance of the buildings and facilities used in respect of the Academy is the responsibility of the Academy Committee, who shall have regard at all times to the safety of the users of the buildings and the facilities and the legal responsibilities of the Company (and/or any others) as tenant to the owners of such buildings and facilities.

7.3.2. The Academy Committee shall in conjunction with the Directors develop a 5 year estate management strategy to be submitted to the Trustees for their approval that will identify the suitability of building and facilities in light of long term curriculum needs and the need for and availability of capital investment to meet the Academy Committee's responsibility to ensure the buildings and facilities are maintained to a good standard.

7.3.3. The responsibility for any disposals or acquisitions of land to be used by the Academy will be that of the Company subject always to the approval of the Trustees and in accordance with the provisions of the Master Funding Agreement.

7.4. Insurances

7.4.1. Insuring the land and buildings used by the Academy will be the responsibility of the Company. The Trustees will procure some or all such insurance on the Company's behalf pursuant to the terms of the Buildings Lease but the Company as tenant is required to cover the cost of such insurance for the Academies and the Directors are entitled to deduct a proportion of such contribution relating to the Academy from the budget of the Academy.

7.4.2. The Directors shall provide to and use reasonable endeavours to procure for the Academy Committee a copy of each insurance policy

taken out by them or on their behalf which insures against any risks relating to the property, premises and activities of the Academy. The Academy Committee shall use all reasonable endeavours to ensure that none of the terms of any of those insurance policies are breached and in the event of any event which will or may give rise to a breach of or claim under any applicable insurance policy the Academy Representatives shall immediately notify the Directors.

7.5. Staff

7.5.1. The Company's Directors shall be responsible for appointing the Principal and Vice-Principal of the Academy and, where the Academy is a secondary school, the Head of Religious Education and the school Chaplain.

7.5.2. The Academy Committee shall be responsible for the process to appoint other staff and the management of all other staff employed at the Academy provided that the Academy Committee shall:

7.5.2.1. comply with all policies dealing with staff issued by the Directors from time to time;

7.5.2.2. take account of any pay terms set by the Directors;

7.5.2.3. adopt any standard contracts or terms and conditions for the employment of staff issued by the Directors;

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

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

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

- 7.5.3.2. who attend religious worship in accordance with the tenets of the Catholic faith; or
- 7.5.3.3. who give or are willing to give religious education at the Academy in accordance with the tenets of the Catholic faith.
- 7.5.4. Regard may be had in connection with the termination of employment or engagement of any such teacher at the Academy to any conduct on his part which is incompatible with the precepts or with the upholding of the tenets of the Catholic faith.
- 7.5.5. To the fullest extent permitted by law from time to time in connection with the appointment, remuneration or promotion of all non-teaching staff in particular without limitation any Chaplain appointed by the Company for the Academy where being of the Catholic faith is an occupational requirement and the application of that requirement is a proportionate means of achieving a legitimate aim having regard to the Object and to the nature or context of the work to be carried out by the member of non-teaching staff in question, then preference may be given to a practising Catholic.
- 7.5.6. To the fullest extent permitted by law from time to time the contract of employment for teaching and other staff used by the Company shall include provisions aimed at securing the employee's commitment to the mission, purposes, aims and objectives of Catholic education and the Object and all employees will be required to have regard to, develop and maintain the Catholic character of the Academy and not do anything detrimental or prejudicial to the interests of the same. Subject to the same being complying with law in force from time to time the Academy's disciplinary procedures must take account of local model policies produced by the Diocesan Bishop.
- 7.5.7. The Academy Committee shall put in place procedures for the proper performance management, professional and personal development of staff, including the Principal, of the Academy.

7.6. **Extended Schools and Business Activities**

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

7.7. **Regulatory Matters**

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

8. **OPERATIONAL MATTERS**

- 8.1. The Academy Committee shall comply with the obligations set out in Appendix B which deals with the day to day operation of the Academy Committee.
- 8.2. The Academy Committee will comply with all policies of the Company and the Diocesan Bishop including without limitation those set out in Appendices C to G inclusive (collectively "the Policies") and with any amendments or additions to those Policies and with any additional policies communicated to the Academy Committee

from time to time (which once communicated shall become one of the Policies).

- 8.3. All the Academy Representatives have a duty to act with integrity, objectivity and honesty in the best interests of the Company and the Academy and shall be open about decisions and be prepared to justify those decisions except in so far as any matter may be considered confidential.
- 8.4. The Academy Committee shall provide such data and information regarding the business of the Academy and the pupils attending the Academy as the Directors may require from time to time.
- 8.5. The Academy Committee shall submit to any inspections by the Directors and any inspections pursuant to section 48 of the Education Act 2005 and any additional canonical inspections and visitations of any person appointed by the Directors in consultation with the Diocesan Bishop for the purpose of ensuring that the Academy is being conducted in accordance with canon law and is following the practices and teachings of the Catholic Church and in order to allow the Diocesan Bishop to assess how well the Academy is being managed in light of the additional responsibilities and expectations of Catholic schools which are academies.
- 8.6. The Academy Committee shall work closely with and shall promptly implement any advice or recommendations made by the Directors in the event that intervention is either threatened or is carried out by the Secretary of State and the Directors expressly reserve the unfettered right to review or remove any power or responsibility conferred on the Academy Committee under this Scheme in such circumstances.

9. **REVIEW**

- 9.1. This Scheme shall operate from the Effective Date in respect of the named Academy.
- 9.2. The Scheme shall not be amended unless the amendment is

approved in writing by the Founder Member in its absolute discretion.

- 9.3. The Founder Member may in its absolute discretion alter any provisions of this Scheme and may review the Scheme on a periodic basis as determined by the Founder Member (which may be annually). An amended Scheme, once communicated to the Academy Committee and the Company shall be binding on all the parties to it.
- 9.4. In considering any material changes to this Scheme, the Founder Member will have regard to and give due consideration of any views of the Directors and/or Academy Committee.

Schedule 1

List of Academy Representatives

Mr Andrew Bant
Mrs Tracy Causer
Mr Philip Hancox
Mrs Karen Palk
Mrs Eugenie Ward

Schedule 2

**Deed of Adherence to be executed by each Academy Representative
on being appointed (clause 6.1.4)**

[Date]

BISHOP MILNER CATHOLIC SCHOOL

DEED OF ADHERENCE

BETWEEN

THE COMPANY

AND

THE FOUNDER MEMBER

AND

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

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

2. **PARTIES**

2.1. The St John Bosco Catholic Academy (the "Company");

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

2.3. The Founder Member.

3. **BACKGROUND**

3.1. *[Name of the new Academy Representative]* [is nominated] [is appointed] [has been duly elected] as an Academy [Foundation] [Staff] [Principal] [Parent] [Additional] Representative for Bishop Milner Catholic School under the provisions of [6.2.1] [6.2.3] [6.2.4] [6.2.5] [6.1.2.1] of that Academy's Scheme.

4. **AGREED TERMS**

4.1. **Interpretation**

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

4.2. **Adherence to the Scheme**

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

4.2.2. confirms [he/she] [is nominated][is appointed][has been duly elected] as an Academy [Foundation] [Staff] [Principal] [Parent] [Additional] Representative for Bishop Milner Catholic School and accepts and is willing and able to fulfil the duties of that office.

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

4.2.3.1. The Articles;

4.2.3.2. The Master Funding Agreement;

4.2.3.3. The Supplemental Agreement applicable to the Academy;

4.2.3.4. The lease entered into by the Company as tenant with the Trustees as landlord, (the Buildings Lease);

4.2.3.5. The lease entered into by the Company as tenant Dudley Metropolitan Borough Council as landlord, (the Playing Fields Lease); and

4.2.3.6. The Scheme of Delegation for the Academy together with the Policies annexed to it and/or which are current at the date of commencement of my appointment ("the Scheme").

4.2.4. undertakes to the Company and the Founder Member to comply with the terms of the documents listed above throughout the term of [his/her] appointment as an Academy Representative for the Academy and shall use all reasonable endeavours to carry out and comply with the policies, directions and instructions issued by the Directors, the Founder Member and/or the Diocesan Bishop and not, whether by any act or omission, breach or to do anything to put the Directors in breach of their obligations under the Articles and/or the Relevant Funding Agreement insofar as their terms are applicable to the Academy.

4.2.5. undertakes to the Company and the Founder Member to uphold the Object of the Company.

4.3. **Variation of the Scheme**

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

4.4. **Governing Law and Jurisdiction**

4.4.1. This deed and any disputes or claims arising out of or in connection

with its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

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

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

Schedule 1 to Deed of Adherence

List of Academy Representatives from the date of the Deed

[Insert List]

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

Signature of Academy Representative:.....

Name of Academy Representative:.....

In the presence of a witness:

Name of Witness:

Signature of Witness:

Address of Witness:

.....

.....

Appendix A

ACADEMY FOUNDATION REPRESENTATIVES

UNDERTAKING TO THE DIOCESAN BISHOP

Name:

Address:

.....

.....

I hereby recognise and confirm that:

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

terminated.

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

Signed: Date:

Appendix B

FUNCTIONING OF THE ACADEMY COMMITTEE

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

Committee elect one of their number to fill that vacancy.

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

2. **CONFLICTS OF INTEREST**

- 2.1. Any Academy Representative who has or can have any direct or indirect duty or personal interest (including but not limited to any Personal Financial Interest) which conflicts or may conflict with his duties as a member of the Academy Committee shall disclose that fact to the Academy Committee as soon as he becomes aware of it. An Academy Representative must absent himself from any discussions of the Academy Committee in which it is possible that a conflict will arise between his duty to act solely in the interests of the Academy and any duty or personal interest (including but not limited to any Personal Financial Interest).
 - 2.2. For the purpose of paragraph 2.1, a person has a Personal Financial Interest if he is in the employment of the Company or is in receipt of remuneration or the provision of any other benefit directly from the Company or in some other way is linked to the Company or the Academy.
 - 2.3. In any conflict between any provision of this Scheme and the Articles, the Articles shall prevail.
 - 2.4. Any disagreement between the Principal and any of the other Academy Representatives shall be referred to the Directors for their determination.
- ## 3. **THE CLERK**
- 3.1. The Directors must appoint a clerk to each Academy Committee.
 - 3.2. The Principal cannot be appointed clerk of the Academy Committee.
 - 3.3. If the clerk does not attend an Academy Committee meeting the Academy Representatives can appoint a member of the committee (but not the Principal) to act as clerk for that meeting.
- ## 4. **THE MINUTES**
- 4.1. The minutes of the proceedings of a meeting of the Academy Committee shall be drawn up and entered into a book kept for the purpose by the person authorised to keep the minutes of the

Academy Committee; and shall be signed (subject to the approval of the members of the Academy Committee) at the same or next subsequent meeting by the person acting as chairman thereof. The minutes shall include a record of:

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

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

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

5. **MEETINGS OF THE ACADEMY COMMITTEE**

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

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

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

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

5.3. Any three Academy Representatives may, by notice in writing given to the clerk of the Academy Committee, requisition a meeting of the Academy Committee; and it shall be the duty of the clerk to convene such a meeting as soon as is reasonably practicable.

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

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

5.4.2. a copy of the agenda for the meeting;

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

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

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

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

5.7.1. the Academy Representatives so resolve; or

5.7.2. the number of Academy Representatives present ceases to constitute a quorum for a meeting of the Academy Committee in accordance with paragraph 5.10, subject to paragraph 5.12.

5.8. Where in accordance with paragraph 5.7 a meeting is not held or is terminated before all the matters specified as items of business on

the agenda for the meeting have been disposed of, a further meeting shall be convened by the clerk as soon as is reasonably practicable, but in any event within seven days of the date on which the meeting was originally to be held or was so terminated.

- 5.9. Where the Academy Committee resolves in accordance with paragraph 5.7 to adjourn a meeting before all the items of business on the agenda have been disposed of, the Academy Committee shall before doing so determine the time and date at which a further meeting is to be held for the purposes of completing the consideration of those items, and they shall direct the clerk to convene a meeting accordingly.
- 5.10. Subject to paragraph 5.12, the quorum for a meeting of the Academy Committee, and any vote on any matter thereat, shall be any one half (rounded up to a whole number) of the total number of Academy Representatives holding office at the date of the meeting. If the Directors have appointed any Additional Academy Representatives of the Academy Committee pursuant to clause 6.1.2.5 of this Scheme then a meeting will only be considered to be quorate if those Additional Academy Representatives are present.
- 5.11. The Academy Committee may act notwithstanding any vacancies on its board, but, if the numbers of persons serving is less than three, the continuing persons may act only for the purpose of filling vacancies.
- 5.12. The quorum for the purposes of:
- 5.12.1. appointing an Academy Parent Representative;
- 5.12.2. any vote on the removal of a person in accordance with this Scheme;
- 5.12.3. any vote on the removal of the chairman of the Academy Committee;
- 5.13. shall be any two-thirds (rounded up to a whole number) of the persons who are at the time persons entitled to vote on those

respective matters.

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

5.18.3. the signed minutes of every such meeting; and

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

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

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

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

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

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

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

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

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

5.21.2. the Academy Committee has access to the appropriate equipment if after all reasonable efforts it does not prove possible for the person to participate by telephone or video conference the meeting may still proceed with its business provided it is otherwise quorate.

6. NOTICES

6.1. Any notice to be given to or by any person pursuant to this Scheme (other than a notice calling a meeting of the Academy Committee) shall be in writing or shall be given using electronic communications. In this Scheme, "address" in relation to electronic communications, includes a number or address used for the purposes of such communications.

6.2. A notice may be given to an Academy Representative either personally or by sending it by post in a prepaid envelope addressed to the Academy Representative at his registered address or by leaving it at that address or by giving it using electronic communications to an address for the time being notified to the clerk of the Academy Committee by that Academy Representative. An Academy Representative whose registered address is not within the United Kingdom and who gives to the clerk of the Academy Committee an address within the United Kingdom at which notices may be given to him, or an address to which notices may be sent using electronic communications, shall be entitled to have notices given to him at that address, but otherwise no such Academy Representative shall be entitled to receive any notice from the Academy Committee or any other party to the Scheme.

6.3. A notice shall be deemed to have been given to the Academy Committee and each of the Academy Representatives if that notice is sent by post in a prepaid envelope addressed to the clerk of the Academy Committee or by giving it using electronic communications to an address for clerk of the Academy Committee for the time being notified to all the other parties to the Scheme by the clerk of the Academy Committee.

6.4. A notice shall be deemed to have been given to the Directors of the Company if that notice is sent by post in a prepaid envelope addressed to the Office or if left at the Office or by giving it using electronic communications to an address for the Office for the time being notified to all the other parties to the Scheme by the clerk of the Company.

- 6.5. A notice shall be deemed to have been given to the Founder Member if that notice is sent by post in a prepaid envelope addressed to the Director of Education at the Diocesan Education Service, St Anne's House, 61 Coventry Road, Coleshill, Birmingham B46 3EA or such other address as may be notified from time to time to the other parties to the Scheme by the Founder Member.
- 6.6. A notice shall be deemed to have been given to the Diocesan Bishop if that notice is sent by post in a prepaid envelope addressed to the Director of Education at the Diocesan Education Service, St Anne's House, 61 Coventry Road, Coleshill, Birmingham B46 3EA or such other address as may be notified from time to time to the other parties to the Scheme by the Diocesan Bishop.
- 6.7. A notice shall be deemed to have been given to the Trustees if that notice is sent by post in a prepaid envelope addressed to the Archbishop at Cathedral House, St Chad's Queensway, Birmingham B4 6EU or such other address as may be notified from time to time to the other parties to the Scheme by the Trustees.
- 6.8. An Academy Representative present, either in person or by proxy, at any meeting of the Academy Committee shall be deemed to have received notice of the meeting and, where necessary, of the purposes for which it was called.
- 6.9. Proof that an envelope containing a notice was properly addressed, prepaid and posted shall be conclusive evidence that the notice was given. Proof that a notice contained in an electronic communication was sent in accordance with guidance issued by the Institute of Chartered Secretaries and Administrators shall be conclusive evidence that the notice was given. A notice shall be deemed to be given at the expiration of 48 hours after the envelope containing it was posted or, in the case of a notice contained in an electronic communication, at the expiration of 48 hours after the time it was sent.

7. INDEMNITY

- 7.1. Subject to the provisions of the Companies Act 2006 every Academy Representative or other officer or auditor of the Company acting in relation to the Academy shall be indemnified out of the assets of the Company against any liability incurred by him in that capacity in defending any proceedings, whether civil or criminal, in which judgment is given in favour or in which he is acquitted or in connection with any application in which relief is granted to him by the court from liability for negligence, default, breach of duty or breach of trust in relation to the affairs of the Company.
8. **GOVERNING LAW AND JURISDICTION**
- 8.1. This Scheme and any disputes or claims arising out of or in connection with its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.
- 8.2. The parties irrevocably agree that the courts of England and Wales have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Scheme, its subject matter or formation (including non-contractual disputes or claims).

Appendix C

ARCHDIOCESE OF BIRMINGHAM DIOCESAN EDUCATION SERVICE

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

To be used in a CATHOLIC MULTI-ACADEMY

in the ARCHDIOCESE of BIRMINGHAM

under the CANONICAL AUTHORITY of the ARCHBISHOP of BIRMINGHAM

1. GENERAL

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

² Code of Canon Law 803.3

³ Code of Canon Law 803.1

i.e. the Archbishop of Birmingham, and 'it must be under the control of'⁴ the Archbishop, conducted as a 'Catholic school' in accordance with:

- (a) the Code of Canon Law of the Latin Church and the teachings of the Catholic Church.
- d) It must also be conducted in accordance with:
 - (a) the contractual arrangements underpinning the multi-academy company and any general requirements in law.

2. DIOCESAN POLICY AND DIRECTIVES

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

3. ESSENTIAL REQUIREMENTS

- a) In particular, the following requirements will apply.

(a) Land and Buildings

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

(b) Core purpose - Object

⁴ Ibid

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

(c) Directors

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

(d) Foundation Directors and Academy Foundation Representatives

1. A Diocesan Catholic academy must at all times have such number of Foundation Directors so as to constitute at least a majority of the Directors.
2. Each person appointed as a Foundation Director must sign and

deliver to the Diocesan Bishop a declaration and undertakings.

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

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

1. Religious education is to be in accordance with the teachings, doctrines, discipline, general and particular norms of the Catholic Church and taught as a core subject and integrated into other curriculum areas, subject to the regulation and oversight of the

Diocesan Bishop. The time allocated to religious education will be in line with advice and guidance from the Diocesan Education Service.

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

(f) Staff

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

3. To the fullest extent permitted by law from time to time and in order for the Academy to maintain its religious character, regard will be had by the Directors in connection with the appointment of a person to be a Principal, a Vice-Principal, a head of religious education / religious education subject leader and/or a chaplain to that person's ability and fitness to preserve and develop the religious character of the Academy.

4. To the fullest extent permitted by law from time to time in connection with the appointment, promotion or remuneration of teachers including but not limited to a Principal, a Vice-Principal and any religious education teacher at the Academy regard will be had and preference may be given, to persons:

(a) whose religious opinions are in accordance with the tenets of the Catholic faith; or

(b) who attend religious worship in accordance with the tenets of the Catholic faith; or

(c) who give, or are willing to give, religious education at the academy in accordance with the tenets of the Catholic faith.

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

6. To the fullest extent permitted by law from time to time, in connection with the appointment, remuneration or promotion of all non-teaching staff where being of the Catholic faith is an occupational requirement and the application of that requirement is a proportionate means of achieving a legitimate aim having regard to the Object and to the nature or context of the work to be carried out by the member of non-teaching staff in question, preference may be given to a practising Catholic.

7. To the fullest extent permitted by law from time to time, the

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

(g) Admissions Policy

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

4. CORE PRINCIPLES

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

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

(b) The uniqueness of the individual made in God's image and loved by Him.

(c) The education of the whole person based on the belief that the human

and divine are inseparable.

(d) The education of all with the particular duty to care for the poor and disadvantaged.

(e) Moral principles put into practice within a Christian community.

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

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

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

c) The Church also promotes the principle of community cohesion. Thus, Catholic schools/academies must continue to look outwards and work appropriately in partnership with all other schools in the wider community, Catholic or otherwise, to the benefit of all children in society.

5. GOSPEL VALUES

a) The spirituality at the heart of a Diocesan Catholic academy will promote a life-long development of faith and a personal relationship with God, through Jesus Christ and his Church and ecclesial communion with other academies.

b) Catholic academies promote shared values that constitute the qualitative targets and personal outcomes which underpin the educational enterprise of Catholic education. Those core values are:

(a) faithfulness and integrity;

(b) dignity and compassion;

(c) humility and gentleness;

(d) truth and justice;

(e) forgiveness and mercy;

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

6. REVIEW

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

Margaret Buck
Associate [Director Level]

Diocesan Education Service
Archdiocese of Birmingham

January 2012 as amended May 2013.

Appendix D

ARCHDIOCESE OF BIRMINGHAM DIOCESAN EDUCATION SERVICE

DIOCESAN POLICY and STRATEGY for SCHOOLS and ACADEMIES regarding PROVISION, ACCOUNTABILITY, IMPROVEMENT, SUPPORT AND INTERVENTION

To be used in a CATHOLIC MULTI-ACADEMY
In the ARCHDIOCESE of BIRMINGHAM
under the CANONICAL AUTHORITY of the ARCHBISHOP of BIRMINGHAM

1. INTRODUCTION

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

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

2. MISSION

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

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

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

and

- (b) the object of the Birmingham Diocesan Trust;

and

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

or

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

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

3. DISTINCTIVE CHARACTERISTICS

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

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

⁶ Code of Canon Law 803.3

⁷ Code of Canon Law 803.1

⁸ Ibid

(d) The **role and responsibilities of the Foundation Governors/Directors** appointed by the Diocesan Ordinary (the Archbishop) and who are in the majority on the Governing Body/Board of Directors.

(e) **Religious education, liturgy, collective worship, prayer** and the **whole curriculum** must be in accordance with the norms and teachings of the Catholic Church.

(f) **The Headteacher/Principal, Deputy Headteacher/Vice-Principal, Head of Religious Education/Religious Education subject leader and chaplain must be practising Catholics** and there is the right under employment legislation to give preference to Catholic teachers and support staff where there is a genuine occupational requirement in VA and independent schools (i.e. academies).

(g) The **admissions policy**, in accordance with the Diocesan model policy, gives priority to baptised Catholic children.

4. CORE PRINCIPLES

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

a) The key areas of the distinctive nature of Catholic education are recorded in *Principles, Practices and Concerns* (Bishops' Conference, 1996) and can be considered as underlying principles:

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

(b) The uniqueness of the individual made in God's image and loved by Him.

(c) The education of the whole person based on the belief that the human and divine are inseparable.

(d) The education of all with the particular duty to care for the poor and disadvantaged.

(e) Moral principles put into practice within a Christian community.

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

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

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

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

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

5. VALUES

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

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

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

(a) faithfulness and integrity;

(b) dignity and compassion;

(c) humility and gentleness;

(d) truth and justice;

(e) forgiveness and mercy;

(f) purity and holiness;

(g) tolerance and peace.

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

6. VISION

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

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

⁹ Ecclesial communion – i.e. the diocesan family of schools that enable the Bishop to fulfil his canonical responsibilities
Birmingham Archdiocese Catholic Multi Academy Model Scheme of Delegation
14.06.13

mission of the Church.

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

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

destiny;

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

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

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

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

d) The parents will be encouraged and supported to:

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

¹⁰ See The Framework for School Inspection from January 2012 Ofsted Birmingham Archdiocese Catholic Multi Academy Model Scheme of Delegation 14.06.13

e) **The parishes will be encouraged to:**

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

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

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

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

8. TYPES OF DIOCESAN CATHOLIC EDUCATIONAL PROVISION

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

a) **Voluntary aided schools**

- (a) A Diocesan voluntary aided school is a school where the building and some or all of the land is owned by 'a charitable organisation', i.e. the Trustees of the Archdiocese of Birmingham, and the Diocesan Ordinary (the Diocesan Bishop) appoints the majority of the Governors (Foundation Governors).
- (b) Voluntary aided schools are 'maintained schools', meaning they receive all their running costs from central government via their local authority (LA) to maintain the provision of education in the building which is provided by the Trustees.
- (c) The Governors are the 'authority' for the school; they are the employer of all staff and determine all policy, including the admission policy, which is based on the Diocesan model policy. The Governing Body contributes to the buildings and maintenance costs.
- (d) The Catholic character, the 'non-negotiables', are secured through legislation in force from time to time, flowing from the 1944 Education Act and subsequent legislation.
- (e) The Governing Body is responsible for raising standards through its 3 key roles of:
 - 1. setting the strategic direction;
 - 2. ensuring accountability;
 - 3. monitoring and evaluating school performance.
- (f) The Governing Body is accountable to the LA for the quality of education provided in the school and the outcomes achieved.
- (g) The LA can use its powers to intervene where a VA school is judged to be giving cause for concern. The DES works in partnership with the LA to ensure the Governing Body and Headteacher know and understand the reasons for intervention and the need to secure rapid improvement.

b) **Academies**

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

a self-improving school system.

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

c) Use of language

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

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

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

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

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

a) A single school with its own governing body

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

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

that progress and impact.

(a) The school self-evaluation framework and improvement plan will generally provide the main mechanisms for the strategic planning process.

(b) The Headteacher has responsibility for the internal organisation, management and control of the school and the implementation of the strategic framework established by the Governing Body.

b) Collaboration

(a) Under The School Governance (Collaboration) (England) Regulations 2003 the term 'collaboration' has a particular currency used to reference a form of partnership working between maintained schools only.

(b) The Regulations enable all maintained schools (e.g. VA schools) to have increased collaborative arrangements with other maintained schools, including joint meetings of Governing Bodies and establishing joint committees.

(c) Two or more Governing Bodies may arrange for any of their functions to be discharged jointly. They may delegate any of their functions to a joint strategic committee in the same way as they delegate them to a single committee, outlined in The School Governance (Procedures) England Regulations 2003.

(d) Schools can develop 'collaborative governance' which means the individual Governing Bodies delegate some of their powers to a joint strategic committee so that decisions can be taken by that committee, which are binding on both schools.

(e) Schools with collaborative arrangements may jointly appoint staff. For example, schools in collaboration may share the same Headteacher, or each school may have its own Headteacher.

(f) Catholic schools may collaborate together and one or more Catholic schools may collaborate with one or more non-Catholic schools. In all

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

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

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

c) Federation

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

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

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

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

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

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

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

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

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

d) Multi-academy

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

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

¹¹ See DES Policy and Guidance on Collaboration, Collaborative Governance and Federation for further information
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- (c) In this multi-academy company each academy has a local academy committee which deals with individual school-based matters and local issues, in accordance with the Diocesan Scheme of Delegation for a multi-academy company.
- (d) If individual academies within a multi-academy company wish to work legitimately with other schools or academies outside the membership of the multi-academy, the Board of Directors may permit that partnership working for any individual academy by agreeing a Memorandum of Understanding (MoU) with those external partners.
- (e) **The DES must be invited to offer advice in all cases. This is so that the interests of the Trustees are protected, as well as the Catholic ethos of the academies if the arrangement involves non-Catholic schools or academies.** The Diocesan Bishop and Trustees will expect Foundation Directors to ensure full compliance with this requirement before there are any serious discussions with other Catholic academies/schools, non-Catholic schools/academies or LAs so that the strategic interests of the Trustees are protected and from the outset the communities are able to manage their expectations in a positive manner.

10. MODELS OF LEADERSHIP AND MANAGEMENT WITHIN THE DIOCESE

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

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

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

- (a) The informal term 'Executive Headteacher' is commonly used by LAs, dioceses and the National College to distinguish between the nature of the role and responsibilities of a Headteacher of a single school and a Headteacher who fulfils that role and responsibilities in more than one school.
- (b) The formal term 'Executive Principal' is defined in Diocesan academy documents to mean, "*such person as may be appointed by the Directors as the executive principal of the company with line management responsibility over all the academies' principals and who is responsible for standards in all the academies*".

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

- (c) Those leaders who offer leadership beyond their own school or academy are referred to as 'system leaders'. System leaders impact positively on the quality of provision and children's achievement in the wider educational system and not just in a single school or academy.
- (d) System leaders are often outstanding Headteachers or Principals, however they also identify, grow and develop system leadership qualities and behaviours in other leaders at all levels in their schools/academies and deliberately promote partnership competencies in their staff. They demonstrate and model 'partnership competencies', which are vital to working across the system.

11. SCHOOL IMPROVEMENT AND CAPACITY BUILDING STRATEGIES

Key question: How can schools and academies ensure they have
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appropriate 'strategies for improvement' to drive, build and sustain capacity for improvement?

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

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

¹² Christ at the Centre by Rev Marcus Stock SLT MA

¹³ The Code of Canon Law

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

7. A policy for provision and opportunities for leadership formation and management development that embeds justice and ambition for every child and young person in the motivations of all who aspire to lead effectively at all levels.
8. Succession planning policy and practice that grows future leaders for Catholic schools and academies, who understand and commit to the Gospel values of service and sacrifice as well as being motivated to achieve success.
9. Policy on recruitment and selection approaches that primarily secures high-quality teachers, whilst giving genuine occupational preference to high-quality Catholic teachers who thus can be encouraged to lead outstanding Catholic schools/academies in the future.

(d) For various reasons from time to time all good and outstanding schools and academies will seek enrichment through external advice, guidance, support and challenge in order to: boost the pace of improvement; gain from the exchange of knowledge; and build the capacity for continuous improvement within the school or academy community.

(e) Such engagement is vital if good schools/academies are to move to outstanding and outstanding schools/academies are to retain their quality and their capacity to work beyond their own establishment.

(f) The management decisions to draw in intellectual capital from external sources will be driven by strategic thinking to add-value to effective policy and practice; deliberate actions will be planned and appropriately resourced rather than being random or spontaneous without clear purpose, intended outcomes or measurable success criteria.

(g) The motivations and nature of external enrichment is substantially different to 'external intervention'.

g) **'School to school' strategies for improvement and capacity building**

(a) All schools and academies need to give consideration to working with other schools and academies in ways that enable the school system to

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

(b) The DfE is promoting 'school to school' strategies for improvement and quality training and development directly through collaboration between schools and academies. LAs are increasingly commissioners rather than providers of services; and where services are available they are more often than not traded services. The Government believes schools and academies should be free to determine how they drive forward successfully their fundamental responsibility for improving standards.

(c) At a local level, system-wide approaches can drive the rate and depth of change, improvement and transformation in all schools and academies working in a variety of partnerships. The focus should be on improving leaders' and teachers' moral purpose, knowledge, skills, expertise and performance and consequently impacting on the standards achieved by pupils.

(d) The 'self-improving system of schools' (SISS)¹⁵ approach can also embed in pupils shared attitudes and behaviours that support life-long learning across the whole neighbourhood community, beyond the boundary of any individual educational establishment; those shared attitudes and behaviours finding their roots in the beliefs, values and principles of their educational communities. One significant consequence being, that the wider school system could support children and young people into mature citizenship rooted in a neighbourhood-wide commitment to social justice and the common good.

(e) Whilst protecting at a structural level the ownership, identity, governance, distinctive Catholic character and leadership of its schools

¹⁵ Creating a Self-improving School System David H Hargreaves, National College, 2010
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and academies, in the interests of system-wide improvement the Diocese will also encourage appropriate 'partnership'¹⁶ at a local level with all other types of schools and academies.

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

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

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

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

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

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

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

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

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

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

¹⁸ See Creating a self-improving school system David H Hargreaves, National College 2010
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collaborative governance, federations or multi-academies. They may:

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

establishments;

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

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

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

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

(a) to ensure that all pupils make good progress.

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

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

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

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

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

(e) If an academy is judged to be failing the Secretary of State has the power to intervene and/or terminate the Supplemental Funding Agreement relating to that academy as detailed in the Diocesan academy documentation.

12. MANAGING INTERVENTION

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

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

LAs.¹⁹

b) Legislation in force from time to time sets out the intervention powers of the Secretary of State²⁰.

c) In the Archdiocese of Birmingham Catholic education is, or may be, provided in:

(a) Diocesan Catholic schools, which are voluntary-aided and maintained by a local authority. Therefore, the Governing Body of each school or federation of schools is directly accountable to the maintaining local authority for the quality of education provided in the school(s) and the standards achieved;

or in:

(b) Diocesan Catholic academies, which are independent schools funded directly by the DfE, and legally established as part of a multi-academy. Therefore, the Directors of each multi-academy are directly accountable to the Secretary of State for the quality of education provided in the academies and the standards achieved.

d) In legal terms, Diocesan Catholic schools operate under the Trust of the Archdiocese of Birmingham and the Founder Member of every multi-academy is The Barberi and Newman Academy Trust. Both hold the governance of the same to account for conducting the school or academy as a Catholic school, ensuring its distinctive religious character and securing its future as part of Diocesan educational provision.

e) The Diocesan Education Service (DES) acts as the agent of the Bishop and Trustees of the Archdiocese of Birmingham regarding schools and the Founder Member/The Barberi and Newman Academy Trust regarding academies. As necessary, in the provision of Catholic education with respect to schools the DES is a strategic partner with the maintaining local authority or with respect to academies with the Secretary of State²¹,

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

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

²¹ The Secretary of State or his or her representative

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thereby meeting the needs of Catholic families for an education in the faith in the first instance.

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

- j) In order to fulfil this mandate the DES needs to hold accurate performance data. In the absence of the diocese having any statutory right to receive performance data, at the standing request of the Director of Education and/or pursuant to clause 30C of the Master Funding Agreement, the Governing Body/Board of Directors will complete a return to the DES at the beginning of each autumn term using a DES proforma. The return will record the end of Key Stage results (KS2/KS4) based on the DfE floor standards (and any other data required by or criterion applied by the DfE) in force from time to time for primary and secondary schools or academies.
- k) In cases where any school/academy gives cause for concern, the DES will respond to requests from the LA (regarding VA schools) and the Secretary of State (regarding academies) to support the Governing Body/Board of Directors to enable it fulfil its responsibilities, drive improvement and ensure children and young people achieve well and make good progress.
- l) The nature of any DES support will be in accordance with the legal role and responsibilities, aims, objectives, human and material resources and accountability of the DES.

13. INDICATORS THAT GIVE CAUSE FOR CONCERN

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

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

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

2. results below the median for the percentage of pupils making the expected levels of progress between Key Stage 1 and Key Stage 2 in English and mathematics;
3. any other criterion the DfE may apply from time to time to define a school as giving cause for concern, or underperforming, or vulnerable.

(b) For secondary schools/academies:

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

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

1. requires improvement;
2. has serious weaknesses;
3. requires special measures.

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

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

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

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

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

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

a) SCHOOLS WITH SERIOUS WEAKNESSES OR REQUIRING SPECIAL MEASURES

(a) In the case of Diocesan VA Catholic schools being judged by Ofsted to have serious weaknesses or to require special measures, the DfE may request that the DES enters into formal discussions that the school becomes an academy. The DES will give due and proper consideration to the option of such a school becoming a supported academy in a multi-academy company and will appropriately involve the Governing Body in the discussions to address the cause for concern.

b) ACADEMIES WITH SERIOUS WEAKNESSES OR REQUIRING SPECIAL MEASURES

(a) In the case of academies within a multi-academy company (MAC) judged by Ofsted to have serious weaknesses or to require special measures, the DfE and DES will address the cause for concern in accordance with the provisions laid out in the articles of association,

the master funding agreement, the supplemental agreement and the scheme of delegation that underpin the MAC.

c) In all other cases **DES STAGE ONE** will apply from:

(a)

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

or

2. the point in a calendar year where a judgement in a report following an Ofsted inspection states that a school or an academy requires improvement.

(b) If a school or an academy gives cause for concern with respect to any of the prime indicators listed in Section 13b) (a) to (b) the Chair of the Governing Body/Board of Directors of the school/academy will write formally to inform the Director of Education of the DES at the earliest opportunity and invite challenge, advice, guidance and support to help them address the cause for concern swiftly, effectively and efficiently. It is important that the Governing Body/Board of Directors takes this action as evidence of their ownership of accountability for the school/academy. The Director of Education at the DES will also ensure that schools giving cause for concern are followed up by the DES in accordance with Section 12 (j) of this policy²².

(c) In the case of a VA school maintained by a local authority, the LA will be contacted formally by the Director of Education of the DES. The purpose will be to ensure that the Governing Body shares with the LA and the DES a common understanding of Governors' responsibility for

standards, what needs to be done and the plan for improvement. The LA has a statutory responsibility to hold the Governing Body to account for the quality of education provided in the school and a duty intervene to offer advice, guidance and support to schools giving cause for concern or at risk.

(d) In the case of an academy funded by the Secretary of State, the DfE²³ will be contacted formally by the Director of Education of the DES. The purpose will be to initiate an early conversation about the DfE's view of the Academy's effectiveness and to ensure the Board of Directors shares with the DfE and the DES a common understanding of Directors' responsibility for standards, what needs to be done and the plan for improvement.

(e) The Director of Education, accompanied by the LA and/or representatives from the DfE, will meet the Governing Body/Board of Directors to consider, in light of legislation and/or government policy in force from time to time, the action that needs to be taken regarding intervention in any school or academy below the floor standard or judged to be causing concern or at risk. A key outcome of the meeting will be to establish the Governors/Directors' responsibility for standards and their accountability for producing and implementing a robust plan to address the under-performance of the school/academy and secure rapid improvement in results and a transformation in culture.

(f) The Governors/Directors of the school/academy in question will retain full responsibility for the action that needs to be taken to address the underperformance and promote rapid improvement in standards.

(g) An under-performing school or academy is likely to require external 'intervention'²⁴, challenge and support from other schools/academies, which have the internal capacity to support improvement beyond their own establishment. There may well be the need for other specialised support of a holistic nature, potentially from reputable sources of school improvement services, particularly if there are issues of

²² In the absence of the diocese having any statutory right to receive performance data, at the standing request of the Director of Education, the Governing Body/Board of directors will complete a return to the DES at the beginning of each autumn term using a DES proforma. The return will record the end of Key Stage results (KS2/KS4) based on the DfE floor standards (and any other data required by or criterion applied by the DfE) in force from time to time for primary and secondary schools or academies.

²³ DfE or appropriate department, agency or body

²⁴ For clarification of the term 'intervention' see Section 10 a) and b)
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underperformance to be resolved.

- (h) If the VA school in question is already in collaboration or federation with a communion of Catholic schools, the governance arrangement will facilitate the possibility of either prime or additional external intervention, challenge and support from within the communion.
- (i) Since the academy in question will already be in a multi-academy in communion with other Catholic academies, the governance arrangement will facilitate the possibility of either prime or additional external intervention, challenge and support from within the communion.
- (j) It can be argued that in addressing the needs of a Catholic school or academy the preferred approach would be working on a local solution, achieving transformation through the communion of Catholic schools/academies stimulating 'co-construction'²⁵ between the partners to set priorities, co-design action plans and treat their implementation as a co-production to quickly eradicate the cause for concern.
- (k) Through the processes of 'co-construction'²⁶, social capital (trust and reciprocity) within and between schools/academies is built and nurtured by the extent and depth of mentoring and coaching that is easier to achieve in an existing communion. The enriched social capital generated by the relationships enables the members' intellectual capital (knowledge, skill and expertise) to be exploited fully in pursuit of the same mission.
- (l) Ideally then, at a local level Catholic schools or academies already in a formal governance arrangement, in communion, would be able to act as an autonomous, self-improving, learning community. The aim of external intervention will be to assist the individual school or academy in addressing its areas for improvement, and enable the school or academy, as quickly as possible, to become effective, with no further

need for external intervention and with sufficient internal capacity to improve.

- (m) However, in the case of any Catholic school or academy 'requiring improvement' (Ofsted category) (or identified by the DES as in need of improvement) the prime consideration in looking beyond the individual establishment must be the quality of external intervention, challenge and support available to achieve rapid transformation; in simple terms, there has to be change for the better, quickly, effectively and sustainably.
- (n) In order to secure the very best quality intervention, the Governing Body/Board of Directors may need to look beyond the immediate communion of Diocesan schools or academies if there is insufficient capacity within the local Catholic family. External intervention beyond the immediate communion could be commissioned from: another neighbouring communion of Catholic schools or academies; other outstanding schools or academies locally; teaching schools; sponsors who provide also school improvement services; and quality independent or LA school improvement services.
1. It is worth noting that the local Catholic communion may be able to work in partnership on reciprocal 'school-to-school' strategies for improvement; however, the particular knowledge, understanding, skills and partnership competences required to lead transformation through intervention in an underperforming school/academy requiring substantial and significant improvement are of a much higher-order.
 2. If the local communion cannot provide the necessary intervention for one of the members, this may reveal issues of long-term sustainability for all and needs to be considered.
- (o) Essentially, the Governing Body/Board of Directors will be expected to:
- 1 achieve improvement in the performance of pupils in the end of Key Stage results (KS2/KS4) based on the DfE floor standards in force from time to time after one full academic year. Normally, the

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

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

school/academy in question will be expected to raise attainment above the DfE's current floor standard.

2. achieve measurable improvement judged as having fully addressed the key issues defined by Ofsted in a school requiring improvement within one calendar year and eradicated those concerns.

(p) During the academic year with respect to a school or academy as defined in DES STAGE ONE 14c) (a) 1 or the calendar year with respect to a school or academy defined in DES STAGE ONE 14c) (a) 2, the Director of Education will schedule to meet regularly, as required, with the Governing Body/Board of Directors to receive evaluative reports and evidence of good progress in line with the success criteria of the school/academy improvement plan. At any time the Director of Education may elect to seek further advice from the LA/DfE.

(q) At the end of the academic year with respect to a school or academy as defined in DES STAGE ONE 14c) (a) 1 or the end of the calendar year with respect to a school or academy defined in DES STAGE ONE 14c) (a) 2 the Director of Education will meet with the Governing Body/Board of Directors and the LA/DfE to agree the way forwards.

(r) If the school/academy is above the DfE's current floor standard or is judged as having fully addressed the key issues defined by Ofsted in a school requiring improvement within one calendar year and eradicated those concerns the options are:

1. remove it from the category DES cause for concern or
2. it remains at DES STAGE ONE.

(s) If the school/academy has failed to achieve the DfE's current floor standard or if the key issues defined by Ofsted in a school requiring improvement have not been eradicated it would be moved to DES STAGE TWO.

(t) Drawing on evidence from Ofsted monitoring visits where appropriate, the Director of Education will make the decision and it will be shared with the Governing Body/Board of Directors and the LA/DfE.

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

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

(a) The following point:

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

or

2. the beginning of the second calendar year if the key issues defined by Ofsted in a school requiring improvement have not been eradicated

(b) Going into the second academic year with respect to a school or academy as defined in DES STAGE TWO 14d) (a) 1 or the second calendar year with respect to a school or academy defined in DES STAGE TWO 14d) (a) 2, the Director of Education will need to agree the way forwards with Governing Body/Board of Directors and the LA/DfE.

(c) The Director of Education, accompanied by the LA and/or representatives from the DfE, will meet the Governing Body/Board of Directors to consider, in light of legislation and/or government policy in force from time to time, the action that needs to be taken regarding intervention in any school or academy persistently below the floor standard or judged to be causing concern or at risk. A key outcome of the meeting will be to establish the Governors/Directors' responsibility for standards and their accountability for producing and implementing a robust plan to address the continuing under-performance of the school/academy and secure rapid improvement in results and a transformation in culture.

²⁷ Clearly, with respect to any individual school or academy giving cause for concern there needs to be the option of flexibility regarding a shorter time-scale only, depending on context and circumstances. The time-scale is not likely to be extended beyond a year.
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(d) Essentially, the Governing Body/Board of Directors will be expected to:

1. achieve measurable improvement in the performance of pupils in the end of Key Stage results (KS2/KS4) based on the DfE floor standards in force from time to time at the end of one more academic year,
2. achieve measurable improvement judged as having fully addressed the key issues defined by Ofsted in a school requiring improvement within one more calendar year and eradicated those concerns.

(e) The Governors/Directors will need to be sure that standards are rising so there must be rigorous monitoring for improvement at regular intervals, looking for secure evidence of pupil progress at the earliest possible opportunity.

(f) In the case of a VA school, at the meeting the Director of Education will give notice to the Governing Body that if there is insufficient improvement in standards potentially into a third year, the LA and the Secretary of State have the right to consider the options available in legislation in force from time to time²⁸ and the DES would support appropriate action taken in the best interests of the children and the Diocesan Trustees' ownership of the school.

(g) In the case of an academy, at the meeting the Director of Education will give notice to the Board of Directors that if there is insufficient improvement in standards potentially into a third year, the Secretary of State has the right to consider the options available to him in the Articles of Association, the Master Funding Agreement and the Supplemental Agreement. The DES would support appropriate action taken in the best interests of children and the Diocesan Trustees' ownership of the academy.

(h) During the academic year with respect to a school or academy as defined in DES STAGE TWO 14d) (a) 1 or the calendar year with respect to a school or academy defined in DES STAGE TWO 14d) (a) 2,

the Director of Education will schedule to meet regularly, as required, with the Governing Body/Board of Directors to receive evaluative reports and evidence of rapid progress in line with the success criteria of the school/academy improvement plan. At any time the Director of Education may elect to seek further advice from the LA/DfE.

(i) At the end of the second academic year with respect to a school or academy as defined in DES STAGE TWO 14d) (a) 1 or the end of the second calendar year with respect to a school or academy defined in 14d) (a) 2, the Director of Education will meet with the Governing Body/Board of Directors and preferably the LA/DfE to agree the way forwards.

(j) If the school/academy is above the DfE's current floor standard or judged as having fully addressed the key issues defined by Ofsted in a school requiring improvement within one calendar year and eradicated those concerns the options are:

1. remove it from DES cause for concern or
2. return it to DES STAGE ONE or
3. it remains at DES STAGE TWO.

(k) If the school/academy has failed to achieve the DfE's current floor standard or if the key issues defined by Ofsted in a school requiring improvement have not been eradicated it would be moved to DES STAGE THREE.

(l) Drawing on evidence from Ofsted monitoring visits where appropriate, the Director of Education will make the decision and it will be shared with the Governing Body/Board of Directors and the LA/DfE.

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

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

²⁸ The Education and Inspections Act 2006 as amended by the Education Act 2011
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(a)

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

or

2. the beginning of the third calendar year if the key issues defined by Ofsted in a school requiring improvement have not been eradicated when reinspected under section 5 of the Education Act 2005.

(b) If, after consultation with the DES representing the Trustees, the LA or the Secretary of State decides to propose the closure of a VA school this action will be carried out in accordance with legislation in force from time to time.²⁹

(c) If, after consultation with the DES representing the Trustees, the Secretary of State decides to require a VA school to become a supported academy this action will be carried out in accordance with the legislation in force from time to time.

(d) In the case of an academy, if the Secretary of State is of the opinion that:

1. the academy no longer has the characteristics set out in clause 12 of the Master Funding Agreement; or
2. that the conditions and requirements set out in clauses 13-34B of the Master Funding Agreement are not being met; or
3. the standards of performance of pupils at the academy are unacceptably low; or
4. there has been a serious breakdown in the way the academy is managed or governed; or
5. the safety of pupils or staff is threatened (whether by breakdown of

discipline or otherwise); or

6. the Company is otherwise in material breach of the provisions of the Supplemental Agreement or the provisions in the Master Funding Agreement with respect to the academy,

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

(e) The reason for proposing closure or requiring the supported academy conversion of a VA school or terminating the agreement for an academy would be that despite a reasonable period of external intervention, challenge and support the school/academy has failed to improve and provide pupils with an acceptable level of education; the consequence being that into a third year pupils will not have made the progress typically expected of their age group.

(f) Depending on the analysis of need for school places (primarily for baptised Catholic children in the parish or parishes served by the school or academy, as well as for local children and young people of other faiths or no faith) the DES would need to consider the strategic options available using the appropriate legislation in force from time to time. The DES may have the option to open a new VA school or an academy.

f) **DES STAGE FOUR** would apply if there was a proposal to open a new VA school or approve a new supported academy in a MAC.

(a) Note: The proposal to open a new VA school or approve a new supported academy and progress the process is detailed in legislation and documentation other than this policy statement.

(b) The principle in proposing the opening a new school or approving the opening of a new supported academy in a MAC would be (within the legal framework of employment law) to ensure high quality staff are appointed, preferably with a proven track record of successful performance and raising standards.

²⁹ Ibid
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- (c) The Governors/Directors would have the responsibility to draw up the new staffing structure and the job descriptions and person specifications.
- (d) The Governors/Directors would need to ensure legal advice about TUPE was taken and considered.
- (e) The recruitment, selection and appointment of the Headteacher/Principal must pay close attention to the faith commitment, knowledge, skills, expertise and personal qualities need to raise standards to a particular level within a given time-scale.
- (f) The recruitment process to appoint the Headteacher/Principal must communicate in all associated documentation (i.e. further particulars, job description, person specification and model contract) the expectation that standards in the new school/new academy would need to be improved above the DfE floor in force from time to time by the end of the first full academic year.
- (g) The selection process must be rigorous in testing the resolve, determination, understanding, skills and qualities of the Headteacher/Principal to create the ethos that rapidly secures transformation, raises standards for all pupils and builds capacity to sustain continuous improvement.
- (h) This requirement should be expressed formally as a written modification to the contract of employment and linked to performance management arrangements.
- (i) The written modification would clarify that if the expected improvement in standards was not achieved then the Governors/Directors would have the responsibility to act (see DES STAGE ONE) to address the shortfall in the Headteacher/Principal's performance and its impact on standards.
- (j) Action may include the use of approved personnel policies to provide advice, guidance, and support and challenge if underperformance was proved to be a barrier to improvement.

- (k) The same approach would be used to appoint the teaching staff. The modification to their contracts would clarify that every teacher would be expected to provide good quality teaching so every child in the school has the opportunity to make good progress in lessons and overtime towards end of year and end of Key Stage targets.
- (l) If this was not achieved then Governors/Directors would have the responsibility to act to address the shortfall in any teacher's performance and its impact on standards.
- (m) This clarity of expectation would enable all parties to be open and transparent about the transformation agenda for the new school/academy.
- (n) There would be an unequivocal focus on making a positive difference to children's lives and the professional accountabilities of the Governors/Directors, the Headteacher/Principal and the teaching staff.
- (o) The 'bottom line' is that underperformance as judged by national benchmarks or inspection frameworks cannot continue unchallenged year on year in any Diocesan Catholic school or academy.

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

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

- a) The school or academy will be able to access intervention support from a variety of sources. The focus must be on securing the very best quality support that will rapidly and effectively make a difference to the school/academy's performance.
- b) The DES will not be a direct source of school improvement services or intervention, challenge and support.
- c) The variety of sources may include:
 - (a) External intervention from another at least good and preferably

outstanding Catholic school or academy with a proven track record of high pupil achievement within the particular communion of schools or the multi-academy.

(b)(Without the presumption of an hierarchical order of preference) external intervention from a variety of sources, for example from:

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

9. Commissioned intervention support from other local academy trusts or local collaborations or federations of schools with proven track-record of success in raising standards and effective intervention.

10. Commercial/independent organisations with a proven-track record of success in specific areas of work and quality assurance, as well as secure guarantees to cover continuity of service, staff absence and insurance matters (and with an ethical foundation).

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

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

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

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

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

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

Headteachers/Principals and the DES and them in role as NLEs.

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

protocols, which should be determined by the commissioning body and the NLE and their Governing Body/Board of Directors prior to any intervention programme being agreed.

- (k) For the first time, Catholic Headteachers/Principals may deliberately operate as school improvement professionals formally commissioned to address underperformance and cause for concern in failing Catholic schools/academies and thus be required to make judgements about other Catholic schools/academies within the same Diocesan family, as well as effect improvement.
- (l) NLEs, their Governing Body/Board of Directors, the commissioning body and schools/academies in receipt of NLE/NSS intervention should discuss and share an understanding regarding the following:
1. clarity with respect to roles, responsibilities, accountability and line-management, including all aspects of deployment i.e. number of days;
 2. the context of past, present and predicted performance data in the school/academy needing intervention and the implications;
 3. the aims and objectives of the intervention, e.g. with respect to the quality of leadership, teaching and governance;
 4. the intended outcomes and the measurable criteria of success within a given-time scale of the start of intervention;
 5. the nature of record-keeping, evidence, evaluation, reporting and the audience for any reports;
 6. the expectations regarding the formal judgements that will need to be made and reported, as well as the recommendations to secure rapid improvement in the quality of provision and raise standards.
- (m) The NLE and his/her Governing Body/Board of Directors need to enter into a formal agreement, i.e. a contract for the provision of school improvement services, with the commissioner of those services. Due diligence should apply.

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

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

e) **Local Leaders of Education (LLEs)**

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

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

f) **Catholic life / Religious Education**

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

16. SPONSORSHIP

Key question: How does sponsorship work within the Diocese?

a) The definition of sponsor published on the DfE website cannot be fulfilled by either the Archbishop of Birmingham/The Trustees of the Archdiocese of Birmingham, the Founder Member/The Barberi and Newman Academy Trust in person, institutionally, or by their agent the DES.

b) The DES does not have the legal duty of LAs for standards, neither does it

have the capacity to mimic the role of a LA, or fulfil the responsibilities and duties associated with maintaining, monitoring and evaluating schools or commissioning intervention.

c) Where 'sponsorship', as understood by the DfE, is judged to be necessary, the DES as agent of the Archbishop of Birmingham/The Barberi and Newman Academy Trust will take the lead in discussions with the DfE or any other Government body or agency and work with the school in question to explore the structural possibilities for rapid and effective improvement.

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

17. CELEBRATION

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

a) This policy intentionally focuses on identifying and supporting schools and academies giving cause for concern, mainly because (despite not having any responsibility for standards and performance) the DES must direct its very limited resources to those schools or academies that are at risk; at its most extreme that risk can mean risk of closure. The DES must work on behalf of the Archbishop to ensure that Catholic education is provided across the Diocese and its future is secured in order to meet the needs of Catholic children and families.

b) However, the Director of Education will write to the Governors/Directors of every school/academy that secures an Ofsted judgement of outstanding to celebrate that achievement. The purpose will also be to encourage that successful school/academy to share its knowledge, skills and expertise with other schools/academies in the Diocesan family of schools/academies.

- c) Additionally, Governors/Directors will be reminded that where other local non-Catholic schools/academies ask for help and support then the Catholic community needs to be generous in its response and in reaching out to help all of God's children.

18.FURTHER INFORMATION

Key question: Where can you go for help with respect to any matters mentioned in this document?

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

19.REVIEW

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

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

Margaret Buck

Diocesan Education Service
Archdiocese of Birmingham

March 2013 as amended May 2013.

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

SECURING THE FUTURE – TRIGGERS FOR ACTION TO BE CONSIDERED

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

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

Appendix E

ARCHDIOCESE OF BIRMINGHAM DIOCESAN EDUCATION SERVICE

DIOCESAN POLICY on SEX and RELATIONSHIPS EDUCATION

To be used in a CATHOLIC MULTI-ACADEMY

in the ARCHDIOCESE of BIRMINGHAM

under the CANONICAL AUTHORITY of the ARCHBISHOP of BIRMINGHAM

1. GENERAL

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

2. CHURCH TEACHING

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

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

3. THE CURRICULUM

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

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

4. REVIEW

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

Diocesan Education Service
Archdiocese of Birmingham

January 2012

Appendix F

**ARCHDIOCESE OF BIRMINGHAM
DIOCESAN EDUCATION SERVICE**

**DIOCESAN POLICY for LEADERSHIP FORMATION AND DEVELOPMENT and
SUCCESSION PLANNING**

To be used in a CATHOLIC MULTI-ACADEMY

In the ARCHDIOCESE of BIRMINGHAM

under the CANONICAL AUTHORITY of the ARCHBISHOP of BIRMINGHAM

1. GENERAL

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

2. AIMS

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

a difference to children's and young people's lives, within their own academy and across the communion of the multi-academy;

(b) developing their leadership characteristics and qualities and management skills and behaviours through an appropriate range of internal and external contexts and opportunities, to benefit the children and young people in their own academy and across the communion of the multi-academy;

(c) employing different styles of leadership as necessary to contribute to establishing and sustaining the Catholic ethos, where exercising leadership at all levels is encouraged, in order to promote the growth, learning and development of all members of the communion;

(d) taking on leadership roles as effective Catholic leaders, within the individual academies, across the communion and beyond in other Catholic schools and academies;

(e) taking on leadership roles as effective leaders within the individual academies, across the communion and then beyond in other local schools and academies for the common good.

c) The Directors and senior managers will be pro-active as a multi-academy and at academy level in anticipating and preparing for any changes of leadership in a planned and sustainable manner.

3. PRINCIPLES

a) The academies will drive succession planning and leadership formation and development approaches, with an understanding that:

(a) No one part of the system will succeed alone – individuals, the academies, other Catholic schools, the Board of Directors, principal(s), the DES, local stakeholders, the CES, Higher Education Institutes and the National College all have a part to play.

(b) Individual academies, although critical in terms of providing opportunities and building the Catholic ethos to bind the multi-academy, are too small to be an independent unit of succession

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

(c) It is easier to retain capable, experienced leaders than recruit new ones. Appropriate efforts to hold onto valued experienced leaders should be a priority in any succession strategy. However, there is a balance to be struck about discouraging any movement of staff either internally or externally to the point where an academy fails to benefit from the review, refreshment and revitalisation that comes with a change of staffing. This is especially the case if the capacity to recruit new talented teachers, middle leaders and senior staff is unduly restricted. So retention needs to be considered within the context of a wider unit than just a single academy; it needs to be considered within the local communion of the multi-academy.

(d) Leadership capability only makes sense in relation to the jobs the Directors expect leaders to do. The Directors and senior managers must understand the leadership requirements of the multi-academy and its individual members, before determining the knowledge, skills, expertise and personal qualities necessary to any posts in the academies.

(e) The Directors and senior managers are committed to the principle of distributed leadership and recognise that staff should be encouraged to develop a flexible approach to development and growth and not limit their opportunities or aspirations.

(f) Effective new leaders will be welcomed, whether they come with successful prior experience in a Catholic school/academy, a school/academy with a religious character, a community school or an academy.

(g) The identification of staff who can fill leadership positions now, or who

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

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

4. DEVELOPING LEADERSHIP

a) The Directors and senior managers will:

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

(b) develop leadership in all staff as follows:

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

place in the individual academies or the local communion.

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

5. LEADERSHIP CHARACTERISTICS AND QUALITIES, MANAGEMENT SKILLS AND BEHAVIOURS

- a) The Directors and Principal(s) will be expected to develop a framework of leadership characteristics and qualities and management skills and behaviours that will be applied to leadership formation and development activities across the multi-academy.³⁰
- b) Through the performance management process linked to appropriate leadership formation and development opportunities, senior managers will aim to identify and develop those characteristics, qualities, skills and behaviours that individuals wish or need to develop.

6. WIDER CONTEXT

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

(a) **Performance management**

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

(b) Induction policy

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

(c) Pay policy

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

7. MONITORING

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

8. REVIEW

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

Margaret Buck
Associate [Director Level]

Diocesan Education Service
Archdiocese of Birmingham

January 2012

Catholic Schools and the Definition of a 'Practising Catholic'

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Director of Schools

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Archdiocese of Birmingham

Catholic Schools and the Definition of a 'Practising Catholic'

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Catholic Schools and the Definition of a 'Practising Catholic'

Introduction

The heart and expression of Christian life is action flowing from love; love for the One who shows us the Way to Life; love for the One who teaches us the Truth about Life; and love for the One who gives us Life in its fullness – Jesus Christ. "If you love me you will keep my commandments"³¹, Jesus said to his disciples. To follow faithfully the teachings of Jesus Christ and his Church is therefore, by those who would be his disciples, an act of love.

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

In a society which has largely acquiesced to the "dictatorship of relativism"³², Catholic Christians are called to adhere to Gospel values and to practise moral choices which often are "contrary to the world's behaviour"³³. This call is particularly pertinent to those Catholics who hold positions of governance, leadership and other key posts in Catholic schools, where the values of the Gospel and the teaching of the Church should be at the heart of the integral formation of the children and young people in their care. As such, the selection of candidates for these posts is crucial.

What is the purpose of this document?

The Archdiocese of Birmingham requires that those appointed as foundation governors³⁴ and to certain key posts within Catholic schools are 'practising Catholics'. This document defines what a 'practising Catholic' is for the purpose of these appointments.

This document should also be read in conjunction with 'Christ at the Centre'³⁵, which provides a summary of why the Church provides Catholic Schools. It forms an important part of the diocesan information and guidance that all involved in the appointment process should familiarise themselves with and follow.

³¹ Gospel of John 14:15

³² Cardinal Joseph Ratzinger (Pope Benedict XVI), Homily, Mass before the Papal Election, 18 April 2005

³³ Cf. Pope John Paul II, Homily, Camagüey, Cuba, 23 January 1998

³⁴ See Appendix A

³⁵ Fr Marcus Stock, Diocesan Schools Commission, Archdiocese of Birmingham, 2005
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Why does the Church insist that being a 'practising Catholic' is a genuine occupational requirement for holding certain key posts in Catholic Schools?

In schools with a religious character, it is already recognised, acknowledged and provided for in statutory legislation³⁶ that certain key posts, necessary to the objectives and activities of a school's particular religious ethos, carry with them a "genuine occupational requirement"³⁷.

These key posts require that their holders not only refrain from doing anything "which is incompatible with the precepts, or with the upholding of the tenets"³⁸ of the school's religious ethos but, in the case of headteachers, that they are able and fit to "preserve and develop"³⁹ that ethos and, in the case of certain other designated posts, that they hold "religious opinions"⁴⁰, "attend religious worship"⁴¹ and "give, or are willing to give, religious education"⁴² in accordance with the precepts and tenets of the relevant religious faith.

The Catholic Bishops of England and Wales have collectively mandated that in Catholic schools certain substantive posts carry a requirement that they are held by 'practising Catholics'⁴³. These are the posts of headteacher, deputy headteacher, and head or coordinator of Religious Education. Additionally, there are other key leadership posts which directly affect the Catholic mission of a school. These too may be required to be filled by 'practising Catholics' with the requisite professional skills.

The genuine occupational requirement attached to these posts derives not only from the objectives of the school as a Catholic institution in its fiduciary and legal religious character (the context of the employment post) but also because the performance of the activities concerned with holding these posts are strictly necessary for the school to preserve and develop its Catholic religious ethos⁴⁴ (the nature of the employment post). Consequently, those who hold these posts are required by the context and nature of their occupation to perform specific religious objectives and activities which are essentially

³⁶ See Appendix B, School Standards and Framework Act 1998, Section 60 as amended by Section 37 of the Education and Inspections Act 2006

³⁷ Employment Equality (Religion or Belief) Regulations 2003, Section 7, subsection 3

³⁸ See Appendix B, School Standards and Framework Act 1998, Section 60, (5), (b)

³⁹ Ibid., Section 60, (4)

⁴⁰ Ibid., Section 60, (5), (a), (i)

⁴¹ Ibid., Section 60, (5), (a), (ii)

⁴² Ibid., Section 60, (5), (a), (iii)

⁴³ See Appendix A, 'Memorandum on Appointment of Teachers to Catholic Schools', Department for Catholic Education and Formation of the Catholic Bishops Conference for England and Wales, 11 July 2003

⁴⁴ Cf. Christ at the Centre, Fr Marcus Stock, Diocesan Schools Commission, Archdiocese of Birmingham 2005, pages 10 - 15
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catechetical and ministerial. They are thus vocational as well as professional in nature.⁴⁵

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

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

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

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

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

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

⁴⁵ Cf. Lay Catholics in Schools: Witnesses to Faith, Sacred Congregation for Catholic Education, 1982, §37
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'practising Catholic' in a way that is much more than the simple and common understanding which is used for a school's admissions policy.

Unlike a child's admission to a Catholic school, the key posts referred to carry a genuine occupational requirement that goes beyond simple membership of the Catholic Church alone or even regular attendance at Mass. Their occupation requires them to participate in a very specific religious way in the mission of the local and universal Catholic Church: they have a duty to collaborate with, and be at the service of, the bishop's mission to govern, teach and sanctify the people of God through the work of education⁴⁶. These religious activities are made provision for in statutory legislation⁴⁷ and made explicit in the contracts of employment.⁴⁸

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

As collaborators with the bishop in the ministry of education, the holders of these key posts are expected to model lives of personal holiness and professional integrity⁴⁹ which are worthy of their high calling and position of religious trust within the Church. The religious nature of these posts is the reason for the occupational requirement which demands that they are performed by Catholics who have committed themselves to the integration of their professional excellence with a clear sense of vocation and ministry. Above all others then, these posts must be substantively held and maintained by 'practising Catholics'.

⁴⁶ Cf. The Catholic School, Sacred Congregation for Catholic Education, 1977, §71

⁴⁷ See Appendix B, School Standards and Framework Act 1998, Section 60

⁴⁸ Catholic Education Service Contracts of Employment (Leadership Contracts), Section 4.4

⁴⁹ Cf. Lay Catholics in Schools: Witnesses to Faith, §32, Congregation for Catholic Education, 1982
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What then is the objective definition of a 'practising Catholic' for appointments to the office of foundation governor and to key posts in Catholic Schools?

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

The Church's general obligations for its members require that they strive to live lives of holiness⁵⁰ by being faithful to the teaching of the Gospel⁵¹, by trying to uphold the values⁵² proclaimed in the Beatitudes⁵³, by assisting in the Church's mission to make Christ known to all peoples⁵⁴, by upholding privately and publicly the Church's moral⁵⁵ and social⁵⁶ teaching, by endeavouring to follow an informed conscience⁵⁷ and by making every effort to keep the precepts⁵⁸ of the Church. This is the 'practice' of the Catholic faith in its widest and all encompassing sense.

At the heart of these general obligations though, there are essential components for "full communion"⁵⁹ with the Catholic Church. These are sacramental initiation (Baptism⁶⁰, Confirmation and the Eucharist) and the bonds of profession of faith, the sacraments and ecclesiastical governance. The preservation of this full communion is not limited to purely religious activity but is to be an integral part of the whole pattern of behaviour of a member of the Church⁶¹. It is what essentially constitutes being a committed and 'practising Catholic'.

⁵⁰ Code of Canon Law, Can.210

⁵¹ Code of Canon Law, Can.217

⁵² Christ at the Centre, Section A5, Page 8, Diocesan Schools Commission, Archdiocese of Birmingham, 2005

⁵³ Catechism of the Catholic Church, n.1725 - 1729

⁵⁴ Catechism of the Catholic Church, n.871 - 873; Code of Canon Law, Can.211

⁵⁵ Code of Canon Law, Can.225 §2 and Can.227

⁵⁶ Code of Canon Law, Can.222 §2

⁵⁷ Catechism of the Catholic Church, n.1783 - 1785

⁵⁸ These are: attendance at Mass on Sundays and Holy Days of Obligation; reception of the Sacrament of Reconciliation at least once a year; reception of Holy Communion at least once a year during the Easter season; observing faithfully the prescribed days of fasting and abstinence; providing for the material needs of the Church, each according to their ability. Cf. Catechism of the Catholic Church, n.2041 - 2043

⁵⁹ Code of Canon Law, Can.205

⁶⁰ For someone validly baptised in a non-Catholic Church or ecclesial communion, this would require their subsequent Canonical Reception into the Catholic Church. Baptism, Confirmation and Canonical Reception can all be objectively verified through the production of a relevant certificate issued by the ecclesiastical authority where the sacraments or reception were conferred. Although, there is no canonical requirement for a register of First Holy Communion to be produced, parish priests can usually provide a reference of regular attendance at Mass for someone claiming to be a practising Catholic.

⁶¹ Code of Canon Law, Can.209 §1

Therefore, for appointment to the office of foundation governor or to key posts in a Catholic school, a 'practising Catholic' is to be defined as someone who has been sacramentally initiated into the Catholic Church and who adheres to those substantive life choices which do not impair them from receiving the sacraments of the Church and which will not be in any way detrimental or prejudicial to the religious ethos and character of the school. Inspired by the Gospel and sustained by God's grace, a 'practising Catholic' will give sincere external expression to their interior faith through specific religious, moral and ethical behaviour which is in accordance with the teaching of Christ and the Catholic Church.

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

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

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

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

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

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

The Gospel parable of the two ways remains ever present in the catechesis of the Church; it shows the importance of moral decisions for our salvation: There are two ways, the one of life, the other of death; but between the two, there is a great difference.⁶²

Consequently, it is clear that a 'practising Catholic' will be someone who, despite weaknesses and personal sinfulness, decides to make only those substantive life choices which follow the "Way, the Truth and the Life"⁶³. This way of life is not vague or unknown but is manifest fully and most clearly in the person of Jesus Christ and unfolded in the teachings of His Church.

There are substantive life choices which are incompatible with the teaching of the Church and objectively impair⁶⁴ our communion with the Church for as long as we adhere to them; they are objectively grave in nature and are objectively incompatible with God's law.⁶⁵

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

Clearly, it would be hoped that any individual governor or member of staff in a Catholic school would be sensitive to the very important role that they play in the life and mission of the Church and in the life of faith of the children that their school serves. All those who work in a Catholic school therefore, are required to conduct themselves in a way which does not conflict with the "precept"⁶⁶ and "tenets"⁶⁶ of the Catholic Church and are bound by their contractual obligations "not to do anything in any way detrimental or prejudicial to the interest" of the Catholic character of the school⁶⁷.

There are actions and behaviours which would be considered not only incompatible with the teaching of the Catholic Church specifically but also incompatible with the professional life and career of any employee within any school⁶⁸. Some examples of these would be:

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

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

- formal apostasy from the Catholic Church⁶⁹;
- maintaining membership of, or giving direct support to, any organisation whose fundamental aims and objects are contrary to Gospel values and the teaching of the Catholic Church;

⁶² Cf. Catechism of the Catholic Church, n.1694 - 1696

⁶³ Cf. Gospel of St John 14:6

⁶⁴ Impaired communion within the Church is not to be confused with 'excommunication'. The former results from committing a gravely sinful act or an act that is incompatible with the teaching of the Church but it does not completely separate someone from the life of the Church or from sharing in it in real but limited ways; the latter is the most serious censure or penalty which the Catholic Church imposes on her members and has canonical consequences beyond deprivation of the sacraments and separates them completely from communion with the Church, until the excommunication is lifted.

⁶⁵ Cf. Catechism of the Catholic Church, n.1849 - 1860

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⁶⁶ See Appendix B, School Standards and Framework Act 1998, Section 60, (5), (b)

⁶⁷ Catholic Education Service Contracts of Employment, Section 4.3

⁶⁸ Such conduct may well be in breach of an employee's Contract of Employment and/or amount to actions which could be the subject of disciplinary action. Such behaviour may also be in breach of the GTC Code of Conduct.

⁶⁹ Code of Canon Law, Can.1364

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- maintaining the publication or distribution, or by any other means of social communication or technology, of material content which is contrary to Gospel values and the teaching of the Catholic Church;
- a Catholic contracting a marriage in a non-Catholic church, registry office or any other place without dispensation from canonical form⁷⁰; or contracting a marriage where one or both of the parties have been previously married (and whose former spouse[s] is[are] living) without the former marriage(s) being annulled or declared invalid by the Church;
- maintaining a partnership of intimacy with another person, outside of a form of marriage approved by the Church and which would, at least in the public forum, carry the presumption from their public behaviour of this being a non-chaste relationship; and, where such a presumption in the public forum is not repudiated by the parties within the relationship.

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

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

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

⁷⁰ Code of Canon Law, Can.1059

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

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

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

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

If for any reason a foundation governor of a Catholic school seriously contravenes the declaration that they signed as a condition of their appointment, they can be removed from office⁷¹ by the diocesan bishop or his delegate.

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

*"...expected to be conscientious and loyal to the aims and objectives of the School, having regard at all times to the Catholic character of the School, and not to do anything detrimental or prejudicial to the interest of the same."*⁷²

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

⁷¹ School Governance (Constitution) (England) Regulations 2003, 23(1)

⁷² Catholic Education Service Contracts of Employment, Section 4.3

“Conduct on the part of a teacher or worker which is incompatible with the precepts, or with the upholding of the tenets, of the Catholic Church.”⁷³

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

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

Conclusion

“If you love me you will keep my commandments”⁷⁴

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

⁷³ Catholic Education Service, Model Disciplinary Procedure (All Workers at the School) For Schools with Delegated Budgets (2004)

⁷⁴ Gospel of St John 14:15

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

In Catholic schools, foundation governors and the holders of certain key posts which carry with them an occupational requirement to be a ‘practising Catholic’, are responsible in law and required by the Church to be able and fit to “*preserve and develop the religious character of the school*”⁷⁵ and “*not to do anything in any way detrimental or prejudicial to the interest of the same*”⁷⁶.

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

⁷⁵ See Appendix B, School Standards and Framework Act 1998, Section 60, (4); School Governance (Constitution) (England) Regulations 2003, 8 (1) (b)

⁷⁶ Catholic Education Service Contracts of Employment, Section 4.3
Birmingham Archdiocese Catholic Multi Academy Model Scheme of Delegation
14.06.13

APPENDIX A

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

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

"I am a practising Catholic in full communion with the See of Rome, and I am not the subject of any canonical censure or penalty; my appointment places a statutory duty upon me to ensure that the religious character of the school is preserved and developed⁷⁷ and that the school is conducted in accordance with the provisions of the Archdiocesan Trust Deed⁷⁸; my appointment requires me to comply with the provisions of Canon Law, the teachings of the Catholic Church and such determinations made by the Archbishop and his Trustees and their agent, the Diocesan Schools Commission, in respect of the school or other schools situated in the Archdiocese."⁷⁹

With regard to the Church's requirements for appointments to key leadership posts, the 'Memorandum on Appointment of Teachers to Catholic Schools'⁸⁰, states:

"The posts of Headteacher, Deputy Headteacher and Head or Coordinator of Religious Education are to be filled by baptised and practising Catholics. Other Leadership posts that affect directly the Catholic Mission of the school should, wherever possible, be staffed by skilled practitioners who are committed Catholics. All teachers must respect and support the aims and objectives of a Catholic school."⁸¹

The purpose of the 'Memorandum' is:

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

should give clear guidelines about the Catholic character of education and life in their school. As employers the Governing Body must issue the appropriate contract of employment and associated documentation as published by the Catholic Education Service."⁸²

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

"The formation and education in the Catholic religion provided in any school, and through various means of social communication is subject to the authority of the Church. It is for the Episcopal Conference to issue general norms concerning this field of activity and for the Diocesan Bishop to regulate and watch over it. The local Ordinary is to be careful that those who are appointed as teachers of religion in schools, even non-Catholic ones, are outstanding in true doctrine, in the witness of their Christian life, and in their teaching ability."⁸³

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

"You are required to develop and maintain the Catholic character of the School. You are to have regard to the Catholic character of the School and not to do anything in any way detrimental or prejudicial to the interest of the same."⁸⁴

⁷⁷ School Governance (Constitution) (England) Regulations 2003, 8 (1) (a)

⁷⁸ Ibid., 8 (1) (b)

⁷⁹ Foundation Governor Application Form, Diocesan Schools Commission, Archdiocese of Birmingham

⁸⁰ Department for Catholic Education and Formation of the Catholic Bishops Conference for England and Wales, 11 July 2003

⁸¹ Ibid., Section entitled 'Selecting Leaders For Catholic Schools'

⁸² Department for Catholic Education and Formation of the Catholic Bishops Conference for England and Wales, 11 July 2003, Section entitled 'Purpose of the Guidance'

⁸³ Code of Canon Law, Can.804

⁸⁴ Catholic Education Service Contracts of Employment, Section 4.3

APPENDIX B

Annexure 1

The Articles

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

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

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

Section 37(2)(b) of the Education and Inspections Act 2006 extended these provisions in voluntary aided schools with a religious character in England (not Wales) to the appointment of non-teaching staff, to have regard to a person’s faith where there is a ‘genuine occupational requirement’⁸⁵. An example of such a non-teaching post in a Catholic School is the appointment of a Lay Chaplain.

⁸⁵ Governing bodies, as the employers, must comply with the Employment Equality (Religion or Belief) Regulations 2003 which prevent discrimination on religious grounds, except in a case where being of a particular religion or religious denomination is a genuine occupational requirement. Schools considering whether a particular post has a genuine occupational requirement for a person to be of a particular religion or belief must follow both the regulations and the guidance.

Annexure 2

The Master Funding Agreement

Annexure 3

The Supplemental Agreement

Annexure 4

The Buildings Lease

Annexure 5

The Playing Fields Lease

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

1. Executed as a Deed by the Company by:

.....
Director

In the presence of:

Witness

Address

.....
.....
Occupation

2. Executed as a Deed by the Academy Committee acting by the Academy Representatives listed in Schedule 1 [note - all Academy Representatives appointed or elected at the time of conversion or immediately thereafter should execute this Scheme]

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

3. Executed as a Deed by the Founder Member acting by

.....
Director

In the presence of:

Witness

Address

Occupation

4. Executed as a Deed by the Diocesan Bishop:

.....
In the presence of:

Witness

Address

Occupation

Annexure 2

Undertaking to the Founder Member the Trustees and the Diocesan Bishop

Name:

Address:

.....

.....

.....

[Name of new Director] hereby:

- confirms I [am nominated][am appointed][have been duly elected] as a Director of the Company and accept and am willing and able to fulfil the duties of that office.
- acknowledges to the Company[and],[,] the Founder Member, the Trustees and the Diocesan Bishop that I have been provided with, have read and understood the terms of:
 - The Articles;
 - The Master Funding Agreement;
 - The Supplemental Agreements applicable to each of the Academies;
 - The leases entered into by the Company as tenant with the Trustees as landlord, (the Buildings Leases);
 - The leases entered into by the Company as tenant with [insert details of the relevant Local Authority] as landlord, (the Playing Fields Leases); [and]
 - The Schemes of Delegation for each of the Academies together with the Policies annexed to them and/or which are current at the date of commencement of my appointment ("the Schemes"); and
 - List any other documents if applicable].
- undertakes to the Company, the Founder Member, the Trustees and the Diocesan Bishop to comply with the terms of the documents listed above throughout the term

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of my appointment as Director of the Company and shall not, whether by any act or omission, breach or to do anything to put the Directors in breach of their obligations under those documents.

- undertakes to the Company, the Founder Member, the Trustees and the Diocesan Bishop to uphold the Object of the Company.

This undertaking is signed as a **DEED** by [*Name of Director*] on the [] day of [] 20[]

Signature of

Director:.....

In the presence of a witness:

Name of Witness:

.....

Signature of Witness:

.....

Address of Witness:

.....

.....

.....

ANNEX B

**Arrangements for pupils with SEN and disabilities at each
Academy – for Mainstream Academies only**

Arrangements for pupils with Special Educational Needs ('SEN') and disabilities at Mainstream Academies

Duties in relation to pupils with SEN¹

1. The Directors of the Company must, in respect of each **Mainstream Academy**, comply with all of the duties imposed upon the governing bodies of maintained schools in;
 - Part 4 of the Education Act 1996 as amended from time to time²;
 - The Education (Special Educational Needs) (Information) Regulations 1999 as amended from time to time;
 - The Education (Special Educational Needs Co-ordinators) (England) (Amendment) Regulations 2008 as amended from time to time³.
2. Notwithstanding any provision in this Agreement, the Secretary of State may (whether following a complaint made to him or otherwise) direct the Company to comply with an obligation described in this Annex where the Company has failed to comply with any such obligation.
3. Where a child who has SEN is being educated in a **Mainstream Academy**, those concerned with making special educational provision for the child must secure that the child engages in the activities of the school together with children who do not have SEN, so far as is reasonably practicable and is compatible with:
 - (a) the child receiving the special educational provision which his learning difficulty calls for,
 - (b) the provision of efficient education for the children with whom he will be educated, and
 - (c) the efficient use of resources.
4. In addition to complying with the duties imposed upon the governing bodies of maintained schools set out in The Education (Special Educational Needs) (Information) Regulations 1999 (as amended from time to time) the Company must ensure that the website for each Academy includes details of the implementation of its policy for pupils with special educational needs; the arrangements for the admission of disabled pupils; the steps taken to prevent disabled pupils from being treated less favourably than other pupils; and the facilities provided to assist access to the Academy by disabled pupils (disabled pupils meaning pupils who are disabled for the purposes of the Equality Act

¹ Duties in relation to pupils with SEN at Special Academies are at clause 12A of the Master Funding Agreement.

² Currently these duties are in sections 313 (Duty to have regard to the Special Educational Needs Code of Practice 2001); 317 (Duties in relation to pupils with special educational needs), 317A (Duty to advise parents that special educational provision is being made); and 324(5)(b) (Duty to admit the child where a school is named in the statement).

³ These Regulations are amended by The Education (Special Educational Needs Co-ordinators) (England) (Amendment) Regulations 2009 (SI 2009 No 1387).

2010¹).

Admissions²

5. The Company must ensure that for each **Mainstream Academy** pupils with SEN are admitted on an equal basis with others in accordance with the Academy's admissions policy.
6. Where a local authority ("LA") proposes to name a **Mainstream Academy** in a statement of SEN made in accordance with section 324 of the Education Act 1996, it must give the Company written notice that it so proposes. Within 15 days of receipt of the LA's notice that it proposes to name the Academy in a statement, the Company must consent to being named, except where admitting the child would be incompatible with the provision of efficient education for other children; and where no reasonable steps may be made to secure compatibility. In deciding whether a child's inclusion would be incompatible with the efficient education of other children, the Company must have regard to the relevant guidance issued by the Secretary of State to maintained schools.
7. If the Company determines that admitting the child would be incompatible with the provision of efficient education, it must, within 15 days of receipt of the LA's notice, notify the LA in writing that it does not agree that the Academy should be named in the pupil's statement. Such notice must set out all the facts and matters the Company relies upon in support of its contention that: (a) admitting the child would be incompatible with efficiently educating other children; and (b) the Company cannot take reasonable steps to secure this compatibility.
8. After service by the Company on the LA of any notice (further to paragraph 7 above) stating that it does not agree with the LA's proposal that the Academy be named, the Company must seek to establish from the LA, as soon as is reasonably practicable, whether or not the LA agrees with the Company. If the LA notifies the Company that it does not agree with the Company's response, and names the Academy in the child's statement, then the Company must admit the child to the school on the date specified in the statement or on the date specified by the LA.
9. Where the Company consider that the Academy should not have been named in a child's statement, they may ask the Secretary of State to determine that the LA has acted unreasonably in naming the Academy and to make an order directing the LA to reconsider.
10. The Secretary of State's determination shall, subject only to any right of appeal which any parent or guardian of the child may have to the First-tier Tribunal (Special Educational Needs and Disability), be final.

¹ For the meaning of 'disabled', see section 6 of the Equality Act 2010.

² SEN Admissions requirements for special academies are set out in the Special Academy Supplemental Funding Agreement Annex 1.

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11. If a parent or guardian of a child in respect of whom a statement is maintained by the local authority appeals to the First-tier Tribunal (Special Educational Needs and Disability) either against the naming of an Academy in the child's SEN statement or asking the Tribunal to name an Academy, then the decision of the Tribunal on any such appeal shall be binding and shall, if different from that of the Secretary of State under paragraph 9 above, be substituted for the Secretary of State's decision.
12. Where the Company, the Secretary of State or the First-tier Tribunal (Special Educational Needs and Disability) have determined that it should be named, the Company shall admit the child to the Academy notwithstanding any provision of Annex 1 of the Supplemental Agreement of that Academy.