

Nottingham Roman Catholic  
**Diocesan Education Service**



**Articles of Association  
and the  
Scheme of Delegation**

December 2015

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## **Introduction – what are we doing?**

The purpose of this document is to present a range of proposed amendments to the Articles of Association used within Catholic Academy Trusts in the Diocese of Nottingham.

The precedent Articles of Association are reviewed periodically by the Department for Education (DfE). The revised precedent Articles were agreed earlier this year by the DfE and the Catholic Education Service (CES) for use in new Catholic academies. Theoretically, the revised precedent Articles of Association apply to new Catholic Academy Trusts. However, this would lead to an inconsistency in governance arrangements of Catholic Academy Trusts within the diocese. For this reason, the Nottingham Roman Catholic Diocesan Education Service (NRCDES) with the consent of Bishop Patrick McKinney is proposing to ask all Catholic Academy Trusts to adopt the revised Articles of Association from 1 September 2016.

## **Context – why are we doing it?**

The educational landscape continues to change at a rapid pace with levels of accountability becoming increasingly rigorous. Over the past year, there has been great discussion over the precise role of a Multi-Academy Trust (MAT). In a letter to Her Majesty's Chief Inspector of Schools in January 2015, the Secretary of State for Education made clear her intention to hold Trusts to a greater level of scrutiny over the performance of academies in the future through the use of focused inspections of MATs.

*'I am keen to ensure that MATs are properly held to account for their performance in the delivery of high quality education in their academies'.*

*'...a professional dialogue which focuses in particular on the effectiveness of governance arrangements and school improvement activity...the support being provided to achieve good school-level outcomes...'*

*'It should also consider the arrangements the MAT has made for the effective overseeing, challenge and support of individual academies'.*

More recently, the Regional Schools Commissioner has asked on a number of occasions for further clarification on the way in which the MAT model works within the Diocese of Nottingham. The way in which MATs address 'underperformance' has been mentioned frequently.

The revised Articles of Association further strengthen the role of the Trust, particularly in terms of accountability over the performance of individual academies.

The amendments to the Articles require revisions to be made to the Scheme of Delegation used in our Catholic Academy Trusts. Additionally, the Scheme of Delegation should be subject to an annual review and there are other changes that need to be considered to ensure that the Scheme of Delegation reflects the expectations on governance within a Catholic Academy Trust.

Since the Summer Term 2015, the NRCDES has begun to meet formally with the Chairs of all Catholic Academy Trusts within the Diocese of Nottingham. The purpose of these meetings is to ensure that all Chairs of Trusts are briefed about latest developments and initiatives at national level but also to develop a more collaborative and consistent approach to how Catholic Academy Trusts in the Diocese of Nottingham are governed. Based on our discussions with Chairs, we feel that the proposed amendments would be beneficial and that the move would demonstrate to agencies such as the Regional Schools Commissioner and Ofsted that the Diocese of Nottingham is taking a pro-active stance in ensuring that the diocesan family of Catholic Academy Trusts continue to operate within rigorous and robust systems of governance based on the latest recommendations.

Naturally, we are also aware that in addition to any proposed amendments to the Articles of Association, there is also a need to develop a comprehensive programme of training and support for our Catholic Academy Trusts in order to assist them in carrying out their functions even more effectively. We would welcome further feedback from Trusts on how the NRCDES could best assist with this.

### **Action – *how will we do it?***

A meeting for all Chairs of Catholic Academy Trusts was held at the Diocesan Centre on 30 November 2015. The revised Articles of Association and Scheme of Delegation were shared with them. Resources were provided for Chairs of Trusts to lead a meeting within their own Trust on the proposals. A letter to all headteachers of academies which includes this information booklet was also sent on 30 November 2015.

Trusts are asked to meet in the Spring Term 2016 in order to discuss the proposed amendments and to submit a response to the NRCDES by 1 March 2016. (Please see timeline on page 11).

Following this, the Directors of the NRCDES will meet to receive responses from Trusts and to decide on a final version of revised Articles of Association which will be issued to Trusts.

## Summary of key changes to the Articles of Association

### Article 4

(4) The Company's objects ("**the Objects**") are specifically restricted to the advancement of the Catholic religion in the Diocese by such means as the Diocesan Bishop may think fit and proper by, but without prejudice to the generality of the foregoing:

(a) (i) the establishing, maintaining, carrying on, managing and developing of Catholic schools in the United Kingdom conducted in accordance with the principles, and subject to the regulations and discipline of the Catholic Church; and

(ii) subject to the approval of the Diocesan Bishop, and as purely ancillary to (a) (i) above, the establishing, maintaining, carrying on, managing and developing of other schools in the United Kingdom.

**Article 4** has been amended to widen the terms of the 'Objects'. Now, subject to the approval of the Bishop, the Academy Trust may bring into the Trust a school of a different type. This would not affect Church control as the majority of the Foundation Directors would still need to be maintained, Catholic academies would continue to be designated as Catholic schools and any non-Catholic school brought in would not become a Catholic school. It does, however, allow a Catholic Academy Trust to support a local non-Catholic school should this be considered to be appropriate.

## **Article 46**

(46) Subject to Articles 48-49, the Company shall have the following Directors:

- a. Foundation Directors appointed under Article 50;
- b. any Academy Directors appointed under Articles 51 or 52;
- c. the Executive Principal (ex-officio); and
- d. a minimum of 2 Parent Directors appointed by the Directors whether after election or otherwise under Articles 53-56 in the event that no provision is made under Article 101, or is planned, for at least 2 Parent Local Governors on each Local Governing Body established under Article 100(1);
- e. Co-Opted Directors appointed under Article 58

**Article 46** deals with the composition of the Board. The present Articles dictate that the Principal (headteacher) of each Academy within the Trust will be appointed as a Director. We propose to remove this as the position of the Principal as an employee and Director of the Trust is a clear conflict of interest. In the case of a Trust employing an Executive Principal, the role would be ex-officio. This issue has been discussed with the CES who have advised that they would support a move away from employees being Directors and that the DfE would also welcome this. In the CES revised Articles, the number of Principal posts is limited to 3. We are of the view that, in many ways, having some but not all the Principals as Directors would be more problematic; it therefore seems logical to remove the concept of Principals as Directors entirely. Whilst Principals will no longer be Directors, this does not mean that they will no longer play an extremely important role in the functioning of the Trust. They will have the right to be 'in attendance' at meetings of the Board and will continue to provide professional advice to the Board on all areas but will not be able to count in quorum or vote and will not therefore have the legal responsibility of being a Director.

Parent Directors will continue to be optional as long as parent governors are in place at the level of the local governing body. This will provide a greater level of flexibility.

## **Article 52**

(52) If the number of Academies exceeds seven, the chairmen of the Local Governing Bodies shall elect seven persons from amongst their numbers to be the Academy Directors. Any person elected in accordance with this Article shall only remain an Academy Director for as long as he remains chairman of a Local Governing Body. The Directors shall make all necessary arrangements for, and determine all other matters relating to, the election of the Academy Directors in accordance with this Article. Any election of the Academy Directors which is contested shall be held by secret ballot.

**Article 52** now limits the number of Chairs of local governing bodies who will be Trust Directors to 7. So where there are more than 7 academies within a Catholic Academy Trust, they will elect amongst themselves those who will become Directors. In practice, this is unlikely to affect us as we are unlikely to have Catholic Academy Trusts with more than 7 constituent academies. However, if this were to be the case, it seems sensible to ensure that the Trust Board does not become unwieldy. The DfE has made clear its preference for smaller rather than larger Boards. This would also ensure that the Board maintains sufficient independence from the academies within the Trust.

## **Article 82**

(82) The Directors shall each school year elect a chairman and vice-chairman from among the Foundation Directors. A Director who is employed by the Company shall not be eligible for election as chairman or vice-chairman.

**Article 82** has been amended so that the Chair and Vice Chair must be elected from among the Foundation Directors.

## Articles 105 and 106

(105A) The Directors shall not delegate the following functions:

- (a) the preservation and development of the educational character and mission of the Company and its Academies;
- (b) the approval of the consolidated annual estimates of income and expenditure of the Company;
- (c) the responsibility for ensuring the solvency of the Company and its Academies;
- (d) the appointment of the Clerk, (including where the Clerk is, or is to be, appointed as a member of staff, the Clerk's appointment in the capacity of a member of staff); and
- (e) the modification or revocation of these Articles.

(105AA) The Directors shall not delegate the following functions:

- (a) the appointment of any senior Catholic post (that is Principal, Vice Principal, Head of Religious Education, Subject Leader for Religious Education, Lay Chaplain); and
- (b) the approval of the annual estimates of income and expenditure for one or more Academies.

(105B) The Directors may not delegate:

- (a) the consideration of the case for dismissal; and
- (b) the power to determine an appeal,

in connection with the dismissal of the holder of a Senior Catholic post, other than to a committee of the members of the board of Directors or member of a Local Governing Body.

(105C) The Directors may delegate, subject to Articles 105A and 105B, to any Director, committee (including any Local Governing Body), the Executive Principal, a Principal or any 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 in writing and 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 Local Governing Body), any Director, the Executive Principal, any Principal, 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.

**Article 105** now provides that the Trust cannot delegate to the local governing body the appointment of any ‘senior Catholic post’ (this refers to the posts of headteacher, deputy headteacher, head of Religious Education/subject leader for Religious Education and lay chaplain); this strengthens the position of the Trust as the employer. It has always been the case that the Trust is the employer, however, this has not always been clearly understood as in many ways, local governing bodies were able to lead on all appointments as this was delegated to them.

**Articles 105 and 106** deal with the delegation of functions. These have been amended to limit what can be delegated to that set out within the Scheme of Delegation but significantly, it is clearer about what *cannot* be delegated and in particular, it states that the Directors cannot delegate responsibility for the appointment or dismissal of any person holding a senior Catholic post.

### **Article 107**

(107) Any appointment of any Executive Principal and the Principals of the Academies shall be first approved by the Diocesan Bishop. The Directors may delegate such powers and functions as they consider are required by any Executive Principal and/or the Principals for the internal organisation, management and control of the Academies (including the implantation of all policies approved by the Directors and for the direction of the teaching and curriculum at the Academies).

**Article 107** is amended such that the appointment of any Executive Principal of a Catholic Academy Trust and the Principals of any of the academies within the Trust must first be approved by the Bishop. This is welcomed as these key appointments within a Trust are also significant in terms of Catholic education within the diocese.

## The Scheme of Delegation

- a) Clause 3.1.2 amended to bring the membership of the local governing body in line with that expected under the 2012 Governance Regulations for maintained schools. Limiting the number of staff governors to 1, specifying that there will be 2 parent governors and allowing the appointment of a community governor to be optional.
- b) Clause 4.4.1.1 amended to bring in reference to Executive Principal, Senior Catholic Posts and staff employed across the Trust and to specify that responsibility for their appointment rests with the Directors.
- c) new Clause 4.4.1.6 added requiring the Directors to gain approval of the Bishop before confirming the appointment of any Executive Principal or Principal.
- d) Appendix 1 clause 1.1 amended to remove the limitation on existing Directors being elected as Chair or Vice Chair of a Local Governing Body. This amendment is intended to remove an unnecessary restriction.
- e) the delegation levels set out in Appendix 2 are altered to:
  - i) ensure that the Trust determines the proportion of overall academy budget to be delegated to individual academies;
  - ii) reflect the changes on appointment of staff set out above and ensure that the delegations are consistent for both appointment and dismissal of staff;
  - iii) ensure that the delegation reflects that the Trust as well as the LGB is accountable for standards of teaching;
  - iv) ensure that the delegation reflects that the Trust should agree targets for pupil attainment.

## Timeline

The timeline below shows how the consultation process will be carried out.

30 November 2015	Meeting of Chairs of Catholic Academy Trusts. Presentation of the proposed revised Articles of Association and Scheme of Delegation.  Letter to headteachers of all academies.
January – February 2016	Meetings of Catholic Academy Trusts to discuss the proposed revised Articles of Association and Scheme of Delegation.
1 March 2016	Deadline for responses from Catholic Academy Trusts to the NRCDES.
8 March 2016	Meeting of NRCDES Board of Directors to receive responses from Catholic Academy Trusts and to formally approve the revised Articles of Association and Scheme of Delegation.
11 April 2016	Final revised Articles of Association and Scheme of Delegation sent to Catholic Academy Trusts.
Summer Term 2016	Articles of Association approved by the Education Funding Agency (EFA).
Summer Term 2016	Further training on governance arrangements in Catholic Academy Trusts facilitated by the NRCDES.
1 September 2016	Revised Articles of Association and Scheme of Delegation implemented in Catholic Academy Trusts.