

BIRMINGHAM DIOCESAN BOARD OF EDUCATION SCHEME

The Diocesan Synod for the Diocese of Birmingham, in exercise of the powers conferred by the Diocesan Boards of Education Measure 2021, makes this Scheme on 13th November 2021.

This Scheme is the first scheme made for the diocese under section 3 of that Measure and implements a proposal made by the Bishop with the consent of the body which, immediately before this Scheme was made, was the Diocesan Board of Education for the Diocese.

Preliminary

Commencement

1. This Scheme comes into operation on 1st January 2022

The DBE

Designation of Board of Finance

2. (1) The Diocesan Synod designates as the DBE for the Diocese the Board of Finance for the Diocese known as Birmingham.
(2) The Board of Finance is registered in the register of charities with the number 249403 and is registered in the register of companies with the number 440966.

Delegation of DBE functions to statutory committee

3. (1) The functions which the Board of Finance has as the DBE are delegated to the committee of the Board of Finance established under section 3 of the Measure (referred to in this Article as “the statutory committee”).
(2) The Board of Finance in its own right (rather than the Board acting through the statutory committee) may not exercise a function delegated to the statutory committee or a sub-committee unless it is satisfied—
 - (a) that the statutory committee or the sub-committee is failing to act in accordance with the Measure or this Scheme in relation to that function, and
 - (b) that the failure is significant.
(3) The Board of Finance must set terms of reference for the statutory committee in relation to the exercise of functions delegated under paragraph (1) and the terms of reference must include provision as to—
 - (a) the statutory committee’s budget and the use of Church School Funds held on trust;
 - (b) the functions of the statutory committee;

- (c) appropriate operational matters for the statutory committee including how often it will meet, the quorum requirement and how it will report to the Board of Finance;
 - (d) the responsibility of the statutory committee to regulate its own procedures and the procedures of any sub-committees it may establish in relation to matters not covered by the Measure or the terms of reference made by the Board of Finance without reference to the Board of Finance; and
 - (e) the statutory committee's oversight of the Diocese of Birmingham Educational Trust
- (4) The terms of reference under paragraph (3) may also include provision made by the Board of Finance under Article 15(1) (procedural matters).
- (5) The statutory committee must set terms of reference in relation to the delegation to a sub-committee of functions delegated to the statutory committee under paragraph (1).
- (6) A reference in the subsequent provisions of this Scheme to the DBE is to be read as a reference to the statutory committee.

Duty to promote education etc.

4. The DBE must, as required by section 2(1) of the Measure—
- (a) promote or assist in the promotion of education in the Diocese that is consistent with the faith and practice of the Church of England;
 - (b) promote or assist in the promotion of religious education and religious worship in schools in the Diocese;
 - (c) promote or assist in the promotion of church schools in the Diocese;
 - (d) promote co-operation between itself and other persons concerned with education in the Diocese.

Membership

Members

5. (1) The members of the DBE are—
- (a) the Bishop¹,
 - (b) at least 4 but not more than 6 members appointed by the Bishop,
 - (c) at least 3 but not more than 4 members elected by the Diocesan Synod and
 - (d) at least 3 but not more than 4 members co-opted by the DBE].

- (2) In making an appointment or co-option or selecting candidates for election, regard must be had to the desirability of securing that a variety of relevant skills is available among the members.
- (3) A person is not eligible to be a member of the DBE if the person is disqualified by law from being a charity trustee.

Appointments

6. (1) The Bishop must, after appointing a member of the DBE, give written notice of the appointment—
 - (a) to the Director of Education for the Diocese, and
 - (b) to the Diocesan Secretary.
- (2) The appointment takes effect—
 - (a) on the date specified in the notice, or
 - (b) if no date is specified in the notice, on the date on which the Director of Education receives the notice.
- (3) The appointment comes to an end (unless it has already come to an end under Article 10 or 11)—
 - (a) on the date specified in the notice,
 - (b) at the end of the term of years specified in the notice,
 - (c) in the case of an ex officio appointment, at the time when the person ceases to hold the office by virtue of which the appointment is made, or
 - (d) if none of paragraphs (a) to (c) apply, at the end of a term of 4 years.

Election

7. (1) The Diocesan Synod must hold the elections required for the purposes of Article 5(1)(c).
- (2) The election is to be conducted in the manner determined by the Diocesan Synod in accordance with its Standing Orders.
- (3) Before holding an election, the Diocesan Synod must by resolution specify—
 - (a) the timetable and date for the election,
 - (b) the manner in which it is to be conducted, and
 - (c) the period to be served by each person who is elected.
- (4) The period specified for the purposes of paragraph (3)(c) must not exceed three years.

Co-options

8. It is for the DBE, subject to any provisions made by the Board of Finance under Article 15(2) and the other provisions of this Scheme, to decide the manner in which the co-option is to be made and the term of office which a co-opted member of the DBE is to serve.

Term of office

Term of office

9. (1) An appointed member of the DBE holds office for the period provided for by Article 6(3).
- (2) An elected member of the DBE holds office for the period specified in the resolution under Article 7(3).
- (3) A co-opted member of the DBE holds office for a period which begins and ends on the dates specified in the co-option.

Resignation

10. (1) A member of the DBE may resign the office by giving notice in writing to—
- (a) the Director of Education for the Diocese, and
- (b) the Diocesan Secretary.
- (2) A resignation under this Article takes effect—
- (a) on the date specified in the notice, or
- (b) if no date is specified in the notice, on the date on which the Director of Education receives the notice.

Disqualification or removal from office

11. (1) A member of the DBE who is disqualified by law from acting as a charity trustee ceases, on the disqualification taking effect, to be a member of the DBE.
- (2) The DBE may, by resolution passed by 75% of members present and voting at a meeting of the DBE, remove a member of the DBE from office on any of the grounds set out in provision made by the Board of Finance under Article 15(2).
- (3) The Board of Finance may remove a member of the DBE from office on the grounds that, in the reasonable opinion of the Board of Finance, that person's membership of the DBE is damaging the reputation of the Diocese or is putting the proper operation of the Board at risk..
- (4) In the case of a member of the DBE who is appointed or elected, the power under paragraph (2) or (3) may be exercised only if the Bishop has given written approval.

Casual vacancies

12. (1) Where a casual vacancy arises among the appointed members of the DBE, the Bishop must appoint a person to fill the vacancy in accordance with Article 6.
- (2) Where a casual vacancy arises among the elected members of the DBE, an election to fill the vacancy is to be held in accordance with Article 7.
- (3) Where a casual vacancy arises among the co-opted members of the DBE, the DBE may (but need not) co-opt a person to fill the vacancy.

- (4) Where the unexpired part of the term of office in question is less than six months, there is no need to fill the vacancy.
- (5) A person appointed to fill a casual vacancy holds office only for the unexpired part of the period provided for under Article 6(3) for the preceding appointment.
- (6) A person elected to fill a casual vacancy holds office only for the unexpired part of the period specified in the preceding resolution under Article 7(3).
- (7) A person co-opted to fill a casual vacancy holds office only for the unexpired part of the period specified in the preceding co-option.

Safeguarding

Duty on DBE

13. (1) The DBE is required by section 5A of the Safeguarding and Clergy Discipline Measure 2016 to comply with requirements imposed on it by the code of practice issued by the House of Bishops on safeguarding children and vulnerable adults.

(2) For so long as section 5 of that Measure remains in force for the purposes of any guidance issued by the House of Bishops on matters relating to the safeguarding of children and vulnerable adults, the DBE is required by that section to have due regard to that guidance.

Governance

Chair

14. The chair of the DBE, as required by paragraph 2(1) of Schedule 2 to the Measure, is—
 - (a) the Bishop, or
 - (b) another member of the DBE appointed by it after consultation with the Bishop.

Proceedings

15. (1) The Board of Finance may make provision as to the procedure of the DBE and of any sub-committee.

(2) The DBE may regulate its own procedure and the procedure and membership of any sub-committee, subject to any provision made by the Board of Finance under paragraph (1), the provisions of the Measure and the other provisions of this Scheme.

(3) Subject to that, a sub-committee must report its proceedings to the DBE in accordance with whatever procedural provisions are applicable by virtue of paragraph (1) or (2).

Conflicts of loyalty

16. A conflict of loyalty which would or might arise as a result of a member of the DBE also being a director of the Board of Finance or a member of the Diocesan Synod, or both, is authorised (see paragraph 1(11) of Schedule 2 to the Measure) if—

- (a) the conflict relates to a duty of loyalty owed to the Board of Finance or Diocesan Synod and does not involve a direct or indirect benefit of any nature to the member or a connected person, and
- (b) the member in question declares the conflict.

Functions and] Reporting

Reporting

17. (1) The DBE must, as soon as practicable after the end of each year, make a report to the Diocesan Synod on the exercise of the DBE's functions in that year.

Amendment or revocation of Scheme

Amendment

18. (1) Where an amendment is proposed to this Scheme (including to this Article), the amendment may not be made unless the Diocesan Synod has resolved to approve the proposed amendment.
- (2) The Diocesan Synod may not approve an amendment to this Scheme unless it has obtained the consent of the DBE.
- (3) A proposed amendment to this Scheme is in order only if it is consistent with the Measure and the Charities Act 2011.
- (4) No amendment may be made to this Scheme if it is of a kind which would require the Board of Finance to make a regulated alteration² to its Articles of Association, unless the Board of Finance has obtained the consent of the Charity Commission; and for this purpose "regulated alteration" has the meaning in section 198 of the Charities Act 2011.
- (5) In connection with the approval or making of amendments to this Scheme, the Diocesan Synod—
- (a) must follow any applicable procedure in its Standing Orders, and
 - (b) must not do anything which would be contrary to the provisions of this Scheme.

Revocation

19. (1) The Diocesan Synod may revoke this Scheme only if it has consulted with the DBE and has secured that another Scheme approved by the Diocesan Synod under the Measure will come into effect immediately after the revocation of this Scheme.

- (2) In connection with the revocation of this Scheme, the Diocesan Synod—
 - (a) must follow any applicable procedure in its Standing Orders, and
 - (b) must not do anything which would be contrary to the provisions of this Scheme.

General

Interpretation

- 20.** (1) In this Scheme—
- “the Bishop” means the Bishop of the Diocese (but see paragraph (2));
- “the Diocese” means the Diocese of Birmingham
- “the Diocesan Secretary” means the diocesan secretary of the Diocese];
- “the Measure” means the Diocesan Boards of Education Measure 2021.
- (2) Where the functions of the Bishop are being exercised by another bishop in accordance with an instrument made under section 13 or 14 of the Dioceses, Pastoral and Mission Measure 2007, the references in this Scheme to the Bishop are to be read as references to that other bishop.
 - (3) A reference in this Scheme to the DBE is to be read with Article 3(6).
 - (4) A reference in this Scheme to a sub-committee is a reference to a sub-committee established by the DBE.
 - (5) A reference in this Scheme to a provision made by or under a Measure or Act of Parliament is to be read as a reference to that provision as for the time being amended, extended or applied by or under any other such provision.
 - (6) Subject to that, the Interpretation Act 1978 applies to this Scheme (with the result, among other things, that expressions used in this Scheme have the meaning which they have in the Measure).