



# Diocesan Boards of Education Measure 2021

**2021 No. 1**

## *Responsibilities*

### **7 Advice**

- (1) The DBE for a diocese may (apart from whatever advice it is required to give under the following provisions of this section) give advice on matters affecting church schools in the diocese to—
  - (a) the governing bodies or proprietors of those schools,
  - (b) the trustees of church educational endowments, and
  - (c) such other persons concerned with education in the diocese as the DBE considers appropriate.
- (2) The governing body of a voluntary or foundation school which is a church school must obtain the advice of the DBE before—
  - (a) publishing proposals under section 15(2) of the Education and Inspections Act 2006 for the discontinuance of the school,
  - (b) publishing proposals under section 19(3) of that Act for an alteration to the school,
  - (c) serving notice under section 30(1) of the School Standards and Framework Act 1998 of an intention to discontinue the school, or
  - (d) beginning consultation under section 88C(2) of that Act about the admission arrangements proposed for the school.
- (3) The duty under subsection (2)(b) does not apply in a case where the DBE's consent is required under section 8(1) or (2).
- (4) The proprietor of an Academy which is a church school must obtain the advice of the DBE before—
  - (a) seeking the consent of the Secretary of State for the discontinuance of the school;
  - (b) seeking the consent of the Secretary of State for an alteration to the school;

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- (c) beginning consultation about the admission arrangements proposed for the school.
- (5) The governing body or (in the case of an Academy) the proprietor of a church school or, where there is a church educational endowment held wholly or partly in connection with a church school, the trustees of the endowment must obtain the advice of the DBE before—
  - (a) making an application in connection with a proposed disposal of the whole or part of the premises of the school, or
  - (b) entering into an agreement for the disposal of the whole or part of the premises of the school.
- (6) The trustees of a church educational endowment held wholly or partly in connection with a church school must obtain the advice of the DBE before making or agreeing to make an alteration to the purposes for which the endowment may be applied.
- (7) The DBE for a diocese must give advice on whatever matters advice is sought from it under subsections (2) to (6).
- (8) Where the giving of advice under subsections (2) to (6) is to be considered at a meeting of the DBE, the following persons may attend the part of the meeting dealing with the consideration of the matter—
  - (a) the head teacher of the school concerned,
  - (b) the chair of the governing body, board of directors or trustees (as the case may be), and
  - (c) one or two other persons (or such greater number as the DBE may allow) nominated by the governing body, the board of directors or the trustees.
- (9) Where a person who is entitled to attend a meeting of the DBE in reliance on subsection (8)(a) or (b) is unable to do so, the person may nominate another person to attend the meeting in his or her place.
- (10) A person attending a meeting of the DBE in reliance on subsection (8) or (9)—
  - (a) may make an oral presentation or oral submissions to the meeting, and
  - (b) may speak in response to a question put by a member of the DBE.
- (11) A person to whom the DBE for a diocese gives advice must, in carrying out a function to which the advice is relevant, have due regard to that advice.
- (12) The references in subsection (5) to a disposal of land are references to the sale of the land or to the transfer or grant of any other interest in or over the land.

## **8 Consent**

- (1) The governing body of a voluntary school which is a church school must obtain the consent of the DBE before publishing proposals under section 19 of the Education and Inspections Act 2006 for a change of category to foundation school.
- (2) The governing body of a foundation school which is a church school must obtain the consent of the DBE before publishing proposals under that section for a change in the instrument of government which would result in the majority of governors being foundation governors.

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- (3) The governing body of a voluntary or foundation school which is a church school must obtain the consent of the DBE before applying for an Academy order under section 3 of the Academies Act 2010.
- (4) The governing body or (in the case of an Academy) the proprietor of a church school which is on land in which a freehold or leasehold interest is held on trust for the purposes of a church school must obtain the consent of the DBE before entering into an agreement or arrangement in connection with an alteration to or repair of the premises of the school.
- (5) The duty under subsection (4) does not apply if the estimated cost of the alteration or repair is less than such amount as the DBE may from time to time determine.
- (6) Where the giving of consent under this section is to be considered at a meeting of the DBE, the following persons may attend the part of the meeting dealing with the consideration of that matter—
  - (a) the head teacher of the school concerned,
  - (b) the chair of the governing body or board of directors (as the case may be), and
  - (c) one or two other persons (or such greater number as the DBE may allow) nominated by the governing body or the board of directors.
- (7) Where a person who is entitled to attend a meeting of the DBE in reliance on subsection (6)(a) or (b) is unable to do so, the person may nominate another person to attend the meeting in his or her place.
- (8) A person attending a meeting of the DBE in reliance on subsection (6) or (7)—
  - (a) may make an oral presentation or oral submissions to the meeting, and
  - (b) may speak in response to a question put by a member of the DBE.

## **9 Consultation**

- (1) A local authority, before appointing a person to represent the Church of England as a member of a standing advisory council on religious education under section 390 of the Education Act 1996, must consult the DBE for each diocese in the area of which the local authority exercises its functions.
- (2) The duty under subsection (1) does not affect section 392(2) of the Education Act 1996 (which requires a local authority, before appointing a person as a representative of a religion, denomination or association on a standing advisory council, to assure itself that the person is such a representative).

## **10 Directions**

- (1) The DBE for a diocese may give a direction to the governing body or (in the case of an Academy) the proprietor of a church school in the diocese if the DBE is satisfied that the governing body or proprietor—
  - (a) is failing to exercise, or to exercise properly, its functions so far as relating to relevant alterations to the school or to the discontinuance of the school, and
  - (b) is accordingly acting in a manner which is not in the interests of the school or of church schools generally.

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- (2) The DBE for a diocese may give a direction to the trustees for a church educational endowment held wholly or partly for a church school in the diocese if it is satisfied that the trustees—
  - (a) are exercising their functions in relation to the endowment in a manner such that the endowment is not being applied in the best interests of the school, or
  - (b) have failed to exercise, or to exercise properly, their functions in relation to the endowment.
- (3) Where the DBE for a diocese has concerns about the quality of the denominational education provided by a church school in the diocese or about the content of the collective worship of a church school in the diocese, it may direct the governing body or (in the case of an Academy) the proprietor of the school to permit the inspection by such person as the DBE appoints of the education or worship concerned.
- (4) A direction under subsection (1) or (2) must specify the function or functions concerned.
- (5) The governing body or proprietor or the trustees must comply with a direction given under this section—
  - (a) in the case of a direction under subsection (1) or (2), within six months of being given it;
  - (b) in the case of a direction under subsection (3), within such period as the direction specifies.
- (6) Where the giving of a direction under this section is to be considered at a meeting of the DBE, the following persons may attend the part of the meeting dealing with the consideration of that matter—
  - (a) the head teacher of the school concerned,
  - (b) the chair of the governing body, board of directors or trustees (as the case may be), and
  - (c) one or two other persons (or such greater number as the DBE may allow) nominated by the governing body, the board of directors or the trustees.
- (7) Where a person who is entitled to attend a meeting of the DBE in reliance on subsection (6)(a) or (b) is unable to do so, the person may nominate another person to attend the meeting in his or her place.
- (8) A person attending a meeting of the DBE in reliance on subsection (6) or (7)—
  - (a) may make an oral presentation or oral submissions to the meeting, and
  - (b) may speak in response to a question put by a member of the DBE.
- (9) Where the DBE for a diocese gives a direction under this section, it must lay a report—
  - (a) before the diocesan synod, or
  - (b) in the case of a joint DBE, before the diocesan synod for the diocese to which the direction relates.
- (10) An alteration to a school is “relevant” if it is an alteration which—
  - (a) in the case of a voluntary or foundation school, is for the time being prescribed in regulations under section 18 of the Education and Inspections Act 2006;
  - (b) in the case of an Academy, corresponds to an alteration which is for the time being so prescribed.

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## 11 Engagement

- (1) The DBE for a diocese may engage on matters of common interest with persons concerned with education in another diocese if it has obtained the consent of the DBE for the other diocese.
- (2) Where the DBE for a diocese has, by virtue of section 15(2), functions in connection with the other charitable work of the Church of England in relation to children and young people, it may engage on matters of common interest with persons concerned with such work in another diocese if it has obtained the consent of the DBE for the other diocese.

## 12 Information

- (1) The DBE for a diocese may require the governing body or (in the case of an Academy) the proprietor of a church school in the diocese to provide information to assist the DBE in carrying out its functions.
- (2) Where there is a question as to whether the governing body or proprietor is prevented by law from providing information required under subsection (1), or as to whether information required under that subsection would assist the DBE in carrying out its functions, either the DBE or the governing body or proprietor may refer the question to the consistory court of the diocese for determination.
- (3) A question referred under subsection (2) for determination is to be disposed of on the basis of written representations; and the court's determination is final.
- (4) The references in subsections (2) and (3) to the consistory court of the diocese are, in the case of the diocese of Canterbury, to be read as references to the commissary court of that diocese.

## <sup>F1</sup>13 Safeguarding

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### Textual Amendments

- F1** [S. 13](#) repealed (1.3.2022) by [Safeguarding \(Code of Practice\) Measure 2021 \(No. 3\)](#), [ss. 2\(6\), 3\(3\)](#); [S.I. 2022/118](#), [art. 2](#)

## 14 Government contributions to capital works in church schools

A DBE may enter into arrangements with one or more other DBEs for the purpose of securing that the dioceses concerned are to be regarded as a single entity in respect of the annual contribution from the Secretary of State towards the cost of capital works in certain church schools in any of those dioceses.

## 15 Other responsibilities

- (1) The DBE for a diocese has such other functions as are conferred on it by provision made by or under any other Measure or an Act of Parliament (whether the DBE is for that purpose referred to as the DBE or as “the appropriate diocesan authority” or “the appropriate religious body” or by some other description).

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- (2) The DBE for a diocese has such other functions in connection with education or with the other exclusively charitable work of the Church of England in relation to children and young people as the diocesan synod may confer on it by a scheme under section 3.
- (3) But a function may not be conferred under subsection (2) which—
  - (a) relates to church schools or church educational endowments,
  - (b) is inconsistent with the DBE's charitable purposes, or
  - (c) conflicts with a provision of this Measure or with provision made by or under any other Measure or an Act of Parliament.
- (4) In a case where the Board of Finance is designated as the DBE for the diocese by a scheme under section 3, the reference in subsection (3)(b) of this section to the DBE's charitable purposes is to be read as a reference to the Board of Finance's charitable purposes so far as they relate to its functions as the DBE for the diocese.
- (5) In a case where there is a joint DBE, this section has effect as if the power conferred by subsection (2) on the diocesan synod were a power conferred on the diocesan synods concerned acting jointly.
- (6) The DBE for a diocese may do anything to facilitate, or anything which is conducive or incidental to, the exercise of its functions.

## 16 Consequential amendments

- (1) The Archbishops' Council may, in consequence of provision about education made by or under an Act of Parliament, amend this Measure by order so as to add, vary or omit provision—
  - (a) conferring a function on the DBE for a diocese;
  - (b) requiring the governing body or (in the case of an Academy) the proprietor of a church school or the trustees of a church educational endowment or a local authority to obtain the advice or consent of or to consult, or to comply with a direction given by, the DBE for a diocese.
- (2) An order under this section—
  - (a) may make different provision for different purposes;
  - (b) may include supplementary, incidental, consequential, transitional or saving provision.
- (3) An order under this section may not be made unless—
  - (a) a draft of the order has been laid before the General Synod and approved by it with or without amendment, and
  - (b) the draft so approved has been referred to the Archbishops' Council.
- (4) Before a draft of an order under this section is laid under subsection (3)(a), the Archbishops' Council must consult the Secretary of State; and if the Secretary of State does not respond within the period of 90 days beginning with the day on which the draft is sent to the Secretary of State for that purpose, the Secretary of State is to be regarded as having no comments on the draft.
- (5) On referral of the draft under subsection (3)(b), the Archbishops' Council must—
  - (a) if the draft was approved without amendment, make the order by applying its seal, or
  - (b) if the draft was approved with amendment—

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- (i) make the order by applying its seal, or
  - (ii) withdraw the draft for further consideration.
- (6) An order under this section may not come into force unless it has been sealed by the Archbishops' Council.
- (7) If the Business Committee of the General Synod determines that a draft of an order under this section does not need to be debated by the Synod, the draft is to be treated as approved without amendment for the purposes of this section unless a member of the Synod gives notice in accordance with its Standing Orders that the member—
  - (a) wishes the draft order to be debated, or
  - (b) wishes to move an amendment to it.
- (8) The power to make an order under this section is exercisable by statutory instrument; and the Statutory Instruments Act 1946 applies—
  - (a) as if the order had been made by a Minister of the Crown, and
  - (b) as if this Measure were an Act of Parliament providing for the instrument containing the order to be subject to annulment in pursuance of a resolution of either House of Parliament.

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