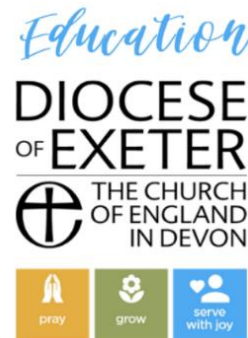


# Exeter Diocesan Board of Education Committee

# Academy Policy and Strategy

## October 2023



*To enable all, through the love of God in Jesus Christ, to 'live life in all its fullness' (John 10:10b)*

**Nurture** vision-inspired education; **Nourish** personal and spiritual growth; **Enable** connected communities that flourish

## Rationale

The Exeter Diocesan Board of Education Committee (DBE) Academy Policy and Strategy is written to provide clarity in relation to the Exeter DBE expectations regarding the governance, relationships and provision of consents for schools to convert to academies and academy trusts.

This sits alongside the Exeter [DBE's Multi-School Grouping Policy and Guidance](#) (which recommends all schools should be working in a strong formal partnership), providing further detail specifically in relation to academies and academy trusts.

## The Exeter Diocesan Board of Education Committee (DBE)

The Exeter Diocesan Board of Education Committee (DBE) is the committee of the Exeter Diocesan Board of Finance (DBF) established under s.3(7) of the Diocesan Boards of Education Measure 2021 (the 2021 Measure). The DBE exercises the powers and duties conferred on the DBF in its capacity as Diocesan Board of Education (DBE) by or pursuant to the 2021 Measure and which must be delegated to the DBE committee by the DBF (the DBE Functions) in accordance with the Scheme made by the Diocesan Synod on 1st January 2023.

The Exeter DBE is a statutory body with responsibilities for church schools in the Diocese of Exeter, and for RE and collective worship. The [DBE Measure 2021](#) provides the legal framework within which DBEs engage and work with church schools.

The DBE is constituted with members nominated by the Bishop, elected members of the Diocesan Synod, and additional members who have experience of church schools in the diocese. It includes clergy, lay people, and education professionals from across the diocese.

## DBE Vision and Strategic priorities

This policy sits within the DBE's vision and strategic priorities, as follows:

The DBE Vision is *'To enable all, through the love of God in Jesus Christ, to 'live life in all its fullness' (John 10:10b)* as we seek to: **Nurture** vision-inspired education; **Nourish** personal and spiritual growth; **Enable** connected communities that flourish.

The DBE strategic priorities are:

- The Diocese of Exeter has a successful diocesan family of schools.
- Responding pro-actively to the changing educational landscape strengthens school performance, capacity, and sustainability.
- The DBE Committee and Education Team are working effectively and can demonstrate positive impact.
- The DBE Committee plays its part in ensuring schools are a central part of the diocesan mission.

## Diocesan Context

The Exeter DBE has statutory responsibility for 134 Church of England Schools and is committed to ensuring these are a vital and thriving part of our diocese both now and into the future. Our schools include small rural primaries with mixed aged classes; large urban schools; infant, junior and primary schools, some with nursery provision; and five secondary schools with two providing further education courses. These schools span three Local Authorities, four archdeaconries and twenty-five deaneries. We work closely with other dioceses and have schools within academy trusts which span our three neighbouring dioceses.

As of the 1<sup>st</sup> September 2023, 79 of our Church of England schools are academies, with a further 6 in the process of conversion to academy status having been granted academy orders by the Regional Director of the Department of Education. This equates to 63% of our church schools.

Of those schools not yet academised or without an academy order, 22 are Voluntary Aided schools and 27 are Voluntary Controlled schools.

There are 17 Academy Trusts with church school articles in the Diocese of Exeter: 10 of these have majority church articles, 6 minority church articles and 1 equity church articles. One academy trust is in process of moving from minority to majority articles, and 2 mainstream articulated academy trusts have been granted the permission of the Exeter Diocesan Board of Education to adopt church articles. All 17 Academy Trusts with church articles have community schools within them. The Exeter DBE sees this as a furtherance of its mission and feels it aligns well with the national Church of England's Vision for Education '[Deeply Christian, Serving the Common Good](#)'.

The DBE in which a Church of England school is located is the religious authority.

## Powers and Functions of the DBE

The Measure provides the legal framework setting out the powers and functions within which the DBEs engage and work with Church of England schools. For example, it:

- Confers power on the DBE to provide advice on matters affecting church schools,
- Lists the situations in which the governance board, and the site trustees of a school site must obtain the DBE's advice,
- Outlines where the site trustees or DBE's consent is required (for example capital works),
- Requires those to whom the DBE gives advice to have "due regard" to that advice. (This means they would have to demonstrate good reasons for not following it),
- Sets out the circumstances in which a church school must obtain the prior written consent of the DBE (for example prior to seeking an academy order),
- Sets out when and how the DBE may give directions to church schools, academy trusts and site trustees and requires those receiving a direction to comply with it (an example being to direct a church school to permit an inspection of the religious education or collective worship in that school, should the DBE have concerns as to its quality or content).

The DBE must:

- Promote or assist in the promotion of education in the diocese that is consistent with the faith and practice of the Church of England,

- Promote or assist in the promotion of religious education and religious worship in schools in the diocese,
- Promote or assist in the promotion of church schools in the diocese,
- Promote co-operation between itself and other persons concerned with education in the diocese.

## **Key principles agreed between the National Society (on behalf of Diocesan Boards of Education) and the Secretary of State for Education**

Key principles and working arrangements agreed are set out in the memorandum of understanding (MoU) between the National Society and DfE. This MoU applies to all Church of England schools that already have, and those that are taking on, academy status, setting out the relationship with the DBE and regarding any statutory action to support, challenge or intervene in any underperforming Church of England local authority maintained school or academy.

## **Exeter DBE requirements regarding academy trust homes for church schools**

The Exeter DBE requires church schools seeking to convert from maintained to academy status do one of the following:

- Convert and join one of the academy trusts appropriate for Church schools in the school's locality.
- Explore, alongside diocesan officers, an academy trust appropriate for church schools with the view of moving as a group into the trust and joining or creating a geographical hub on conversion.

If a school wishes to work with an existing academy trust with mainstream articles within the Diocese of Exeter, they should approach the Diocesan Director of Education to open an exploratory conversation. Church schools are not able to join an academy trust with mainstream articles therefore consent for the academy trust to move to church articles of association would need to be considered and approved by the DBE and Department for Education.

The Diocese of Exeter allows majority and minority church articles of association. Majority and minority refers to the proportionality of foundation governance on the academy trust members' and directors' boards. Majority means a 'simple majority' and minority means 25% or more.

Voluntary Controlled and community schools can seek consent to join an academy trust with minority articles. Voluntary Aided, Voluntary Controlled and community schools can seek consent to join an academy trust with majority articles. Occasionally, if in close geographical proximity, a school may wish to join an academy trust rooted in a neighbouring diocese with equity articles. This is only permissible for schools within the Diocese of Exeter if they are Voluntary Controlled or community schools. This policy reflects the previous maintained category of the school involved and helps to safeguard its future as a church school in line with its Trust Deed.

Where academy trusts work with the Diocese of Exeter and another diocese, it is Exeter DBE's practice that a memorandum of understanding (MoU) is agreed between both/all dioceses to minimise any duplication and give clarity to the joint work and decisions. Currently MoUs are in place with each of our neighbouring dioceses.

Please see Appendix 1 for academy trusts with church articles in the Diocese of Exeter.

Schools and academy trusts are required to liaise with Diocesan Officers early if discussions about a school converting to academy and joining an academy trust are taking place.

## **Conversion from a Maintained School to an Academy, and the Joining of an Academy Trust**

Maintained schools must seek the consent of the Diocesan Board of Education if they wish to convert to an academy. Schools will not be permitted to convert without identifying the academy trust into which they join on conversion. Schools will only be permitted to join academy trusts with the appropriate governance as detailed above, and after the DBE, site trustees and those responsible for appointing foundation governors have given consent.

Schools and academy trusts must approach the DBE Education Officers early to discuss any proposal.

The DBE's Education Officers have a suite of resources which they use to support and guide schools through their investigations and due diligence regarding academy conversion and joining an academy trust. Schools will be required to demonstrate they have undertaken thorough due diligence and be able to assure the DBE that they understand what a move to academy status means in practice, that their selected academy trust is a safe home for their school and that the decision is in the best interests of the children who attend (or who will attend) the school.

The DBE has a Schools Organisation and Governance Group (SOGG) to which it delegates its responsibility for giving conditional consent for academy conversion. SOGG meets monthly in term time to review submissions and hear directly from all schools wishing to convert, alongside their chosen academy trust, about their work with diocesan officers, their due diligence and their plans for the future. Schools (and academy trusts) will be asked questions and any conditions to the consent formulated. A letter of conditional consent will be sent within 5 working days of the SOGG meeting.

In order to streamline the consent processes, any other parties who are required to give consent (those who appoint foundation governance and site trustees) are invited to attend the SOGG meeting.

Following conditional consent, diocesan officers will continue to work with the school and academy trust to ensure conditions are met.

Schools seeking to join an academy trust are expected to gain conditional consent from SOGG, on behalf of the DBE, in advance of their submission to the Regional Director and Advisory Board. The Regional Director will expect to be provided with a copy of the letter of conditional consent from the DBE and cannot give conditional consent and issue an academy order without the DBE's consent.

If a direct academy order is issued by the Regional Director, a submission to SOGG will not be required. The Regional Director will consult with the DBE about a suitable academy trust - the DBE will require this to be a trust with appropriate church articles and on which the Exeter Diocesan Education Network (EDEN) is a Diocesan Corporate Member.

## **Diocesan Corporate Member and Exeter Diocesan Education Network (EDEN)**

The Exeter Diocese Education Network (EDEN) is a Foundation Corporate Member on all Academy Trusts in the Diocese of Exeter that includes a Church of England School or has Church of England Articles.

Members of the Trust are the 'guarantors' of the company and have limited but important powers. These include holding the trust board to account, the right to wind up the Academy Trust, amend the Articles, change the name of the company, appoint additional Members, appoint and remove one or more Directors and appoint the trust external auditors.

The inclusion of a Foundation Corporate Member in an academy trust is one of the distinguishing characteristics of church school education. The Foundation Corporate Member in each Academy Trust represents the historic link with the original church establishment (the 'founding' establishment, hence the term 'foundation') of the schools within the Trust. As such, Foundation Members are the ultimate custodian

of the Trust, ensuring protection and progression of church schools' distinctive Anglican Christian ethos. Corporate Member Representatives are unlike other individual members of an Academy Trust in that they are not appointed to personally serve as a Member. EDEN Corporate Member Representatives are appointed specifically to represent EDEN. They are therefore obliged to seek and follow any directions and decisions from EDEN.

It is a requirement of the Exeter DBE that EDEN will have a place on the Members' Board in all academy trusts that include a Church of England School within the diocese or which has Church of England Articles.

EDEN Corporate Member representatives are required to share paperwork and report back to EDEN.

EDEN Corporate Member representatives are also required to attend annual training.

## **Consents from EDEN and the DBE**

The academy trust must obtain written consent from either the DBE or EDEN as the Diocesan Corporate Member as stipulated in trust's articles. This includes consents for any amendments to the Articles of Association, changes to the name or location of any Church Academy, appointment and removal of additional Members and Directors, and local governance provisions including the Scheme of Delegation, rules and bye laws.

The EDEN Committee have delegated responsibility from the EDEN Directors.

## **Governance at Member, Director and Local Levels**

Academy Trusts with majority articles must have a simple majority of foundation members and directors. Trusts with minority articles must have 25% or more of foundation members and directors. Where academy trusts have an individual local governance committees for each school, foundation representation must reflect the previous maintained category as a voluntary aided or voluntary controlled school, or in the case where a school opened as an academy, the minority or majority governance structure at its opening.

Where the academy trust has hub governance structure at a local level with one local board responsible for a group of schools, the hub governance must include foundation representation if there is a church school in the hub. To ensure the local church connection is maintained and the Christian foundation upheld, each Church of England school within the hub must have its own ethos committee or committee that reports regularly to the hub governance committee.

Those involved in the academy trust governance, at all levels, must agree to sign a written undertaking to uphold the Object of the academy trust at the time of appointment. This is to be provided to the Diocesan Director of Education upon request.

## **Governance Appointments**

The appointment of members and directors is in accordance with the articles. Local governance is a committee of the board or directors, so the composition and appointments are the responsibility of directors and in accordance with the articles.

Where EDEN is the appointing authority for foundation directors the process for appointing and removing must be followed.

Formal consent for all appointments must be sought from EDEN and the DBE as per articles.

## **Provision of Information and Diocesan / Trust Communications**

At times, the academy trust may be required to provide information to the DBE including, but not limited to, the minutes of meetings and details of insurance provisions as required by the DBE Measure 2021 and the Church Supplemental Agreement.

An academy trust's communication with the DBE is of vital importance so that DBE Officers have a good understanding of the academy trust, the church schools within the trust and can be assured the Object is being upheld. In order to support DBE Officers understanding and knowledge of the academy trust, a Diocesan Academy Trust Conversation will be offered at least every 2-3 years. The expectation is that academy trusts will use this opportunity to strengthen working relationships and ensure shared knowledge and understanding between the DBE and the academy trust.

The DBE Education Officers provide a termly Academy Trust Leadership Forum. It is expected that academy trust Chief Executive Officers (CEOs) will attend or, if unable to do so, will send a representative from the trust's senior leadership.

## **Trusts / Schools Causing Concern**

The Exeter DBE has a *Vulnerable Schools Strategy, including those Schools Causing Concern (SCC)*, and a *Trusts Causing Concern Strategy*. These are intended to enable the DBE to be proactive in identifying and working alongside Church of England schools and academy trusts with church articles in order to prevent decline or crisis, and to promote improvement.

The DBE has a responsibility to ensure the 'body' with the statutory responsibility for the school is putting in place necessary measures to ensure all pupils can live life in all its fullness, and that actions are having a timely and demonstratable impact to move the school/trust into a more secure position.

## **DBE Direction**

The DBE may give a direction to the academy trust and a decision made by the Members contrary to a direction cannot be implemented by the Directors as this would leave the charity in a position of non-compliance with a statutory duty (in this case to act following a direction under the Measure). For example, where the academy trust is, considered by the DBE, not to be acting in the best interest of the Church Academy or MAT.

The Diocesan Corporate Member may stipulate the appointment of additional Directors where the DBE consider the standards or ethos of any Church Academy have fallen unacceptably low.

Where the Articles provide for it, the Diocesan Corporate Member(s) has a right to appoint additional directors to ensure the character of each Church Academy.

## **Church Supplemental Agreement**

The Church Supplemental Agreement (an agreement between the Academy Trust, the Secretary of State for Education, the Site Trustees and the DBE) sets out the respective rights and responsibilities of each party for oversight of a Church of England school in the Academy Trust, in particular the legal duties regarding the use of the site trustee's land; the protection of public investment in the land; provision for capital grants; provision for intervention and support by the Secretary of State, the DBE and the site trustees in specific circumstances; the partnership between the State and Church in provision of education for church school; and termination provisions.

## **Site Trustees and the Trust Deed**

Church of England school sites (including academies) are generally held on a Trust Deed which establishes the charitable objects and the purposes for which the site and premises can be used. The governing documents of the school will reflect those parameters within which the Church school is to be conducted which must be compatible with the Trust Deed. The school occupies the site at the will of the site trustees, for the furtherance of the object of the Trust Deed. Control of the site is always retained by the site trustees of the Trust Deed, and that is reflected in the way in which Church schools occupy the site on a bare licence (the school has implied permission to occupy the site but does not have any legal or equitable interest in the site), and this is also reflected through the Church Supplemental Agreement for each church academy.

## **Admissions**

An academy trust, as the admissions authority, must have regard to any guidance from the DBE when constructing faith-based admissions arrangements, to the extent that the guidance complies with the mandatory provisions and guidelines set out in the Admissions Code.

Exeter DBE's Admission Guidance can be found on the Diocese of Exeter website, schools section.

The academy trust may also consult with the DBE when deciding how membership or practice of the faith is to be demonstrated for the purposes of admissions at a Church Academy.

Church Academies must, as required by the Measure, consult with the DBE about the proposed admission arrangements before any public consultation.

Admission authorities for schools designated with a religious character must send a copy of their determined arrangements to the body or person representing their religion or religious denomination. For church schools within the Diocese of Exeter, this is the Exeter DBE.

## **Significant Change**

'Making Significant Changes to an Open Academy Guidance' DfE is available and must be referred to by academy trusts. A significant change is a change which may have a 'significant' impact on the local school environment, through changing the number and/or type of school places and/or where they are offered. Academy trusts proposing to make a significant change must submit a proposal for change and follow the required process, in advance of the change being made. Failure to do so will constitute a breach of their Funding Agreement (FA), which could result in further action by the department to address the breach.

The DBE must be consulted regarding any significant change to a Church Academy. It must also be consulted on the proposed discontinuation, acquisition or disposal of school sites, including leasehold arrangements and lettings.

## **Capital Works**

The provisions in the DBE Measure 2021 requires the Governance Board of an academy trust to seek advanced consent in writing from the DBE and site trustees before entering into any agreement or arrangement in connection with an alteration to or repair of the premises of the school, where the works are funded by DfE capital grant.

## **Recruitment**

The academy trust must seek the involvement and consent of the Diocesan Board of Education for the appointment of the Chief Executive Officer and the DBE regarding the appointment of any Principal to a Church of England Academy.

## **Exeter DBE requirements regarding academy transfers**

If an academy trust is seeking to transfer the trust schools into another trust or is exploring a trust transferring their schools into an academy trust, it is expected that diocesan officers will be informed early in discussions.

Former Voluntary Aided schools within an academy trust, can only transfer to a trust with majority church articles. Equally academy trusts will only be able to accept an incoming transfer of schools, where the Exeter DBE is the religious authority, if their articles reflect the former VA/VC (majority/minority foundation) status of the individual academies.

Academy Transfers involving Church Schools will also require a new Church Supplemental Agreement between the parties and therefore the site trustees will be an integral part of any discussions/proposals (in addition to the DBE).

Where academies all transfer into a different trust, the trust from which they have transferred will become dormant until the company is dissolved.

## **New Schools**

As part of its commitment to education, the DBE is keen to promote more opportunities for children and young people within our Diocese to have access to a Church of England education. Where a need for a new school is identified by Devon County Council, Torbay Council or Plymouth City Council, the DBE (via its Resources and Assets Group - RAG) will consider this, the proximity of other church schools, and whether it should be considered as a possible priority for establishment as a CofE school. RAG will liaise with the DBE and, on behalf of the DBE, with the Diocesan Board of Finance.

As per the MoU between the DfE and the National Society, the Regional Director of the DfE will work with the DBE to establish if, in accordance with the Diocesan Strategy alongside wider strategic plans, it will be possible to establish a Church of England free school.

It is the intention of the DBE that any proposal to establish a school with a religious (CofE) designation will be done in partnership with an Academy Trust with church articles.

## **Closure of a Church of England Academy**

DfE Guidance is available setting out the processes academy trusts need to follow before deciding to close an academy by mutual agreement.

Church of England Academies will need the consent of the DBE who should therefore be involved in conversations early to understand why an academy trust thinks closure of an academy might be an appropriate solution, for example to address standards and/or viability issues, including in areas where there are surplus places and there is no predicted increase in the need for places in the medium to long term.



The guidance sets out an expectation that academy trusts will work collaboratively with the Department for Education’s Regional Director, local authorities, the appropriate religious authority (the DBE) and site trustees.

The RD and the DBE will discuss and share views at an early stage regarding the potential closure of a Church Academy.

## Review of DBE Academy Policy and Strategy

The DBE will review its Academy Policy and Strategy - October 2023 in the light of any changes in DfE policy or other circumstances.

## Contact details

Should you require support or guidance please make contact with one of the officers below:

**Sue Lockwood, Diocesan Director of Education**

[sue.lockwood@exeter.anglican.org](mailto:sue.lockwood@exeter.anglican.org)

**Christina Mabin, Governance, Admissions and School Organisation**

[christina.mabin@exeter.anglican.org](mailto:christina.mabin@exeter.anglican.org)

**Richard Power, Diocesan Surveyor (Education)**

[richard.power@exeter.anglican.org](mailto:richard.power@exeter.anglican.org)

**Debbie King, Education Administrative Officer**

[governance@exeter.anglican.org](mailto:governance@exeter.anglican.org)

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