


Schools with a religious character

Whilst mainly an attempt to put the rules governing academies into an Act (rather than in piecemeal funding agreements and Articles of Association that vary from academy to academy), some provisions within Part 1 of the new Bill will be of interest to Catholic academies.

 24 May 2022

Whilst mainly an attempt to put the rules governing academies into an Act (rather than in piecemeal funding agreements and Articles of Association that vary from academy to academy), some provisions within Part 1 of the new Bill will be of interest to Catholic academies.

In its supporting Policy Statement the DfE makes it clear that the intention of the faith schools sections in the Bill is not to change the law as it applies to faith schools, but to put VA academies on the same footing as VA schools by putting the faith provisions into legislation rather than having them scattered around the funding agreements and Articles of Association and varying from Academy Trust to Academy Trust. It therefore isn't the DfE stated intention to change the substantive law as it applies to faith academies.

The Government explicitly states that it cannot make legislation regulating collective worship and the provision of RE at any faith academy and that legislation relating to a faith academy's Articles of Association can only go so far as to securing the academy's faith characteristics and compliance with the Diocesan trust deed (or any other trust deed relating to the school). It seems the DfE is keen not to make legislation that interferes with the Diocese's role in its academies or puts the academies in conflict with the Diocesan trust deed.

Where the Bill touches on boards of Directors at (and Members of) Academy Trusts, it confirms that where 50% or more of the academies in an Academy Trust used to be VA schools, the majority of Directors and Members must be appointed by the "relevant religious body", i.e. the Bishop for Catholic Academy Trusts.

Subject to the above, the Government does give itself the power to make legislation about the make up of Members and Directors, who can act as a Chair and Vice-Chair, how academies consult with and obtain the consent of the Diocese to making appointments (including staff) and what powers can be delegated down to Local Governing Bodies or the senior leadership team. However any legislation made under these provisions is likely to be made following consultation with the Catholic Education Service and cannot touch upon those areas mentioned above.

The new power of the DfE to require academy trusts to appoint interim Directors chosen by the DfE in certain circumstances will not affect the Diocese's power under the Articles of Association to still appoint the majority of the Directors as Foundation Directors. So the Diocese's majority will be maintained even if the DfE requires an interim Director to be parachuted in. Interestingly, the Bill doesn't touch upon the removal of any of the existing Directors once interim Directors are appointed which would prove a stumbling block for the DfE if they hope to create the equivalent of an Interim Executive Board for academies through the Bill.

The proposed new provisions relating to worship are fairly uncontentious. There's a requirement for each child at a faith academy to attend a daily act of collective worship in accordance with the Diocesan trust deed and/or the tenets and practices of the academy's designated faith. Happily though, this daily worship no longer has to be "whole school" and can be split into age or other groups if necessary. The worship has to usually be on site but can be offsite on special occasions (logically Holy days of obligation or retreats etc.).

Equally unsurprisingly are the RE provisions which require RE to be taught in accordance with the tenets and practices of the faith designation and/or Diocesan trust deed. Parents can ask for their children to be taught a different RE curriculum set by the Council and, unless the Academy Trust thinks it unreasonable, the Academy Trust must comply. Parents can also ask for their children to be excused entirely from collective worship and can even ask that their children attend a different act or worship from somewhere else instead. Diocesan inspections of worship and RE will continue to be carried out!

Contact



Vicki Hair

Associate

vicki.hair@brownejacobson.com

+44 (0)115 976 6197

Related expertise

Sectors

Academy trusts and schools

Education