

### **Ecclesiastical/Educational Trusts**

The site, upon which a Church of England School, its playground and any ancillary facilities such as carparking are built, should be held in trust as given under Education law. The details of the school trust, including the identity of the church school trustee(s) often date back to the original school and very often the church school trustee(s) are the Incumbent and Churchwardens. However, there may be a modern Charity Commission Scheme to update the school trust whereby the church school trustee(s) would be the Incumbent plus one trustee chosen by the PCC and one by the Governing Body. In some cases, the Diocesan Trust Corporation or Oxford Diocesan Board of Education (ODBE) has become the sole trustee. In other cases the Diocesan Trust Corporation or Oxford Diocesan Board of Finance has become the custodian trustee and so whilst not having to give consent to a land transaction, must consent to be a party to the relevant legal documentation. (A Local Authority has a duty to provide playing field and so retains the ownership of that area of provided land).

Former School Houses are also held on ecclesiastical/educational trust terms, usually on the same terms as the school site. However, school houses are not considered to be part of the school premises. Therefore, in many cases school houses have been sold, with the sale proceeds forming a financial fund the income of which provides special benefits to school children of a specific geographical area. Where school houses have been retained they may be occupied in a variety of ways e.g. residential tenancies; commercial tenancies for say a nursery school or the school house may be used as part of the school premises which is very sensible and often a better option.

The church school trustee(s) do not have a responsibility for the maintenance of school property or operation of the school whilst a school is in existence. However, if a land transaction is proposed, e.g. lease of land to a Pre-school; grant of a wayleave; sale of surplus land, then only the church school trustee(s) can grant the interest in land or grant a licence to occupy. Church school sites are held on charitable terms. The church school trustees must obtain appropriate written advice to meet the requirements of the Charities Acts and having considered that advice, give consent to the proposal. The appropriate consent via the Diocesan Trust Corporation might also be required. Under the DBE Measure 1991, all trust matters relating to school sites must receive prior consideration by ODBE. The Governing Body is normally made a party to a legal document as it will have the responsibility, along with school staff, for overseeing the third party occupation. Whatever the make up of trusteeship, the Trusts Administrator at Church House Oxford can assist the church school trustee(s) with advice concerning the requirements for land transactions.

Where an Academy is to be created on a church school site, the church school trustee(s) must consent to the church school site being used for an Academy. The church school trustee(s) will normally grant occupation of the school site via a Church Supplemental Agreement, which is similar to a Licence to Occupy. However, if there is to be third party occupation of a school site used for an Academy, then the church school trustee(s) must grant the interest or licence.

If a school transfers to another site or closes, the church school trustee(s) become responsible for the land and buildings. The property will require disposal, usually by sale. Again, the Trusts Administrator can assist the church school trustees with the process.

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