

## Terms of Reference for the Diocesan Board of Education Committee

Approved by the Board of Finance on 14<sup>th</sup> May

### Missional Alignment statement

*"I have come in order that you might have life—life in all its fullness" (John 10:10)*

***The Diocesan Board of Finance\* and the Diocesan Board of Education are committed to working together to support the wider mission of the Diocese of Guildford in seeking to ensure that all children and young people in our diocese are nurtured and are able to flourish and achieve their God given potential.***

***The Diocesan Board of Education serves as the statutory body and religious authority for Church of England schools in the diocese and as a sub-committee has these functions delegated to it by the Diocesan Board of Finance***

*\*In the Diocese of Guildford, the Bishop's Council members act as the directors of the Diocesan Board of Finance*

**The DBE is a statutory committee of the DBF.**

### **1. The DBE Committee**

This governing document represents the desire of the Diocesan Board of Education (**DBE**) and the Diocesan Board of Finance (**DBF**) to maintain their established working relationship through the process of transition from the DBE being an unincorporated body to becoming a statutory committee of the DBF, scheduled to take effect from 1<sup>st</sup> September 2022.

1.1 The **DBE** is the statutory committee of the DBF established under section 3(7) of the Diocesan Boards of Education Measure 2021 (the **2021 Measure**) by way of a Scheme dated 18<sup>th</sup> July 2022 (**Scheme**). The DBE exercises the powers and duties conferred on the DBE by or pursuant to the 2021 Measure which must, pursuant to the terms of the Scheme, be delegated to the DBE by the DBF (the **DBE Functions**).

1.2 The terms of reference are framed within the general requirements of the 2021 Measure that the DBF in its own right (rather than the DBF acting through the DBE committee) may not exercise a function delegated to the DBE committee or a sub-committee unless it is satisfied:

- (a) That the DBE committee or the sub-committee is failing to act in accordance with this Measure or the scheme in relation to that function, and
- (b) That the failure is significant (Appendix 4 lists examples of significant failure and outlines the process to resolve).

The DBF trustees recognise the statutory duties of the DBE as set out in the 2021 Measure and the skills and expertise that DBE members bring to its work with schools to the vital mission of our Diocese amongst our children, young people. The DBF is willing to offer support and encouragement to the DBE at any time. The DBF trustees welcome an ongoing two-way dialogue about how together we can further the important work of our schools and are committed to encouraging all churches to work with and support their local schools, whether they be church schools or community schools.

1.3 All articles or sections (“s.”) referred to below relate to those included in the 2021 Measure unless otherwise stated.

## **2 DBE Committee Membership**

The composition of the DBE, as set out in Articles 5, 7 and 8 of the Scheme, is included at Appendix 1.

2.1 In legal terms, DBE members are not charity trustees. However, they will discharge duties analogous to those of charity trustees in serving on the DBE and should act accordingly. The DBE and DBF share a common commitment to ensure that the appointment, election and co-option of members of the DBE should be driven by the skills and experience needed to discharge the functions of the DBE effectively in accordance with the requirements of Article 5(2) of the Scheme.

2.2 The DBE will prepare and regularly update a skills matrix which will define the gifts, skills and experience required to fulfil the role of DBE member, set at a standard required of a trustee of a significant educational charity. Members of the DBE should

fully support the Church of England's Vision for Education, be committed to the DBE's vision and mission for church school education and share the Diocese's wider missional objectives with regard to children and young people.

2.3 The DBE members will lead on a specific portfolio area on behalf of the DBE and these will be agreed by the DBE

2.4 No DBE member must be disqualified by law from being a charity trustee and, in the event that a member of the DBE would, if a trustee of the DBF, be disqualified from acting as a trustee (whether under Article 30 of the DBF's Articles of Association or otherwise) that member of the DBE must resign with immediate effect.

### **3 The Role of the Diocesan Director of Education**

3.1 The Diocesan Director of Education (DDE) is the lead educational professional in the Diocese and is responsible to the DBE, of which he/she acts as Secretary, for delivery of the DBE's education strategy and plans.

3.2 The DBE will agree the delegated powers of the DDE and DBE officers, including the appointment of Foundation Governors to Church Schools, to ensure that the statutory responsibilities and functions of the DBE can be delivered effectively and in a timely manner and to ensure that the DBE's strategy can be implemented

### **4 Functions of the DBE Committee**

4.1 The DBE is established pursuant to s.3(7) of the 2021 Measure to exercise the functions of the DBE, as detailed in the 2021 Measure and the Scheme, being to:

4.1.1 promote or assist in the promotion of education in the Diocese that is consistent with the faith and practice of the Church of England;

4.1.2 promote or assist in the promotion of religious education and religious worship in schools in the Diocese;

4.1.3 promote or assist in the promotion of church schools in the Diocese;

4.1.4 promote co-operation between itself and other persons concerned with education in the Diocese.

4.2 In fulfilment of these functions, the DBE has the power to:

4.2.1 give Advice in accordance with s.7 of the 2021 Measure;

- 4.2.2 give Consent in accordance with s.8 of the 2021 Measure;
- 4.2.3 take part in a consultation under s.9 of the 2021 Measure;
- 4.2.4 give Directions under s.10 of the 2021 Measure;
- 4.2.5 engage in accordance with s.11 of the 2021 Measure;
- 4.2.6 request information in accordance with s.12 of the 2021 Measure;
- 4.2.7 comply with requirements imposed on it by the code of practice issued by the House of Bishops on safeguarding children and vulnerable adults in accordance with s.13 of the 2021 Measure;
- 4.2.8 enter into the arrangements envisaged in s.14 of the 2021 Measure; and
- 4.2.9 undertake such other functions as may be conferred on the DBE by the Scheme in accordance with s.15 of the 2021 Measure.

## **5. Missional Alignment**

- 4.3 The DBE will discharge its statutory role, and its wider strategic objectives, within the context of the Diocese's mission strategy. This strategy recognises the importance of an integrated diocesan approach to mission to children and young people who live within the Diocese of Guildford, particularly in promoting effective partnership between schools, churches and and their parishioners.
- 4.4 The DBE and the DBF acknowledge their joint responsibility to support and promote agreed missional objectives in relation to children and young people.

## **5 How the DBE Committee exercises its DBE Functions**

- 5.1 DBE members have authority under the provisions of the Scheme to discharge the responsibilities of the DBE and, in fulfilment of their functions, they must:
  - 5.1.1 at all times act in line with the Nolan Principles by acting in good faith, managing conflict of interest and so they do not personally benefit from their position;
  - 5.1.2 abide by the DBF's conflict of interest policy and ensure any conflicts of interest or loyalty are declared and managed appropriately (and, in particular, but without limitation, for those members of the DBE who are also trustees of the DBF, being aware that conflicts of interest or loyalty may arise in connection with the relationship between the DBF and the DBE);
  - 5.1.3 ensure that information obtained in discharging their role is kept confidential;

- 5.1.4 conduct their business in a manner compatible with the DBF's Articles of Association;
- 5.1.5 act in all respects as if they had the fiduciary duties of the trustees of the DBF (although, and for the avoidance of any doubt, members of the DBE are not charity trustees); and
- 5.1.6 act at all times in compliance with charity law.

5.2 The DBE should ensure appropriate procedures are in place to discharge their responsibilities and, in particular but without limitation, shall exercise its functions as detailed in paragraphs 5.3 to 5.7.

5.3 The 2021 Measure is attached as an annex to these Terms of Reference. The DBE should ensure appropriate procedures are in place to discharge its responsibilities, particularly under:

- Clause 7 – Advice
- Clause 8 – Consent
- Clause 9 – Consultation
- Clause 10 – Directions
- Clause 12 – Information
- Clause 13 - Safeguarding

#### 5.4 Appointments - Foundation Governance & appointments of Members to Academy Trusts

##### 5.4.1 Appointment

The DBE will establish and operate agreed procedures for the appointment of foundation governors to maintained church schools to support their Church of England character. Applicants will be asked to complete a skills matrix and confirm their commitment to support the Church of England ethos of their school.

5.4.2 DBE officers shall liaise with the relevant Archdeacon where a foundation governor is required to act in the place of an ex-officio foundation governor.

##### 5.4.3 Appointments to academy trusts in the Diocese

The DBE shall appoint members to an umbrella trust which will be a separate incorporated body. This umbrella trust shall act as Diocesan Corporate Member for academy trusts, appointing Members to those trusts, where such rights have been provided to the DBE in accordance with the articles of association of the respective academy trusts. The umbrella trust will consider the skills, expertise and experience of existing Members of academy trusts and will consult with those members on the appointment of Members to those trusts

## 5.5 Buildings Maintenance

### 5.5.1 VA School Buildings

The DBE will administer capital estate improvements (Voluntary Aided Schools only) through the School Condition Allocation (SCA) and will, through the work of the School Building Officer, provide guidance to Voluntary Aided schools relating to the maintenance and development of their buildings.

### 5.5.2 Consent for building works

The DBE shall seek to coordinate the provision of consents for capital works at maintained school and academies in the Diocese.

## 6 **Processes and Procedures**

### 6.1 **Provisions for regulating DBE Committee meetings are set out in Section 12**

### 6.2 **Other provision for regulating DBE Committee procedures including delegation to sub-committees**

6.2.1 The DBE Committee may make provision to regulate its own procedures and the procedures of any sub-committee in relation to matters not covered by the 2021 Measure, the Scheme or the terms of reference made by the Board of Finance.

6.2.2 The DBE Committee may delegate functions exercisable by it to an officer, member staff of the Board of Finance or a sub-committee established by the committee.

6.2.3 Where the DBE Committee delegates the exercise of any DBE Functions to a sub-committee, the DBE Committee must provide written terms of reference in relation to that delegation which must include a requirement for that sub-committee to report its proceedings to the DBE Committee.

- 6.2.4 The DBE Committee must also minute where the delegation of the exercise of any of its DBE Functions have been made to a corporate entity, any officer or staff member.
- 6.2.5 The DBE Committee must provide for how the DBE Committee reports on exercises of DBE Functions by a sub-committee, officers or staff member.

### **6.3 Governance**

- 6.3.1 The day-to-day leadership of the DBE shall be undertaken by the DDE, who shall support the delivery of the strategic priorities of the DBE in accordance with its functions and in line with overall Diocesan strategy and priorities.
- 6.3.2 The DBF shall make sure that it can contribute to the work of the DBE effectively by appointing a member of the Bishop's Council with relevant expertise to the DBE Committee
- 6.3.3 The activities of the DBE will also be included on the Bishop's Council agenda as a standing item (as minutes or papers provided for information) and will be reported to Diocesan Synod at least annually per Article 17(2) of the 2021 Measure.
- 6.3.4 The DBF must also ensure that there is appropriate indemnity insurance in place which governs the work of the DBE and indemnifies members.

### **6.4 Budget Management**

#### **6.4.1 Budget construction**

The DBE's annual budget and 3-year forecast will be constructed as part of the annual budget cycle and approvals for the Diocesan Budget. This process is facilitated by the Diocesan Director of Finance and Diocesan Secretary involving the following stages:

- Gathering of requirements and assumptions from all teams which will include input from the DDE on behalf of the DBE. The DDE input will cover requirements and assumptions for both UST funds, Education Services, statutory and strategic requirements, and any grant from the DBF or other sources required to enable the DBE to fulfil its vision and strategic priorities for the period covered by the annual budget and 3-year forecast.
- Constructing a draft overall Diocesan Budget and 3 year forecast under the guidance of the Bishop's Leadership Team to incorporate and balance the gathered requirements and assumptions, both

statutory and strategic, from all teams. This will include the input provided by the DDE on behalf of the DBE.

- Review of the draft Diocesan Budget and 3 year forecast by the Diocesan Finance and Audit Committee, of which at least one DBE member will be a member. The review will focus on auditing the Diocesan Budget and 3 year forecast to validate assumptions, fulfilment of statutory requirements, balance of risk and strategic alignment.
- Review and approval of the DBE portion of the draft Diocesan Budget and 3 year forecast by the DBE prior to submission of the overall Diocesan Budget and 3 year forecast to Bishops Council and Diocesan Synod for approval both as a draft and final Diocesan Budget and 3-year forecast.

#### 6.4.2 Financial reporting & forecasting

The Diocesan Director of Finance will provide management accounts for the overall Diocesan Budget including the DBE portion. These will include forecasts for the DBE portion that are gathered involving input by the DDE. Management accounts will be reported to the DBE on a regular basis for the DBE portion and to Bishops Leadership Team and Bishops Council for the overall Diocesan Budget.

#### 6.4.3 In year budget and funding changes

Where a change in DBE requirements or assumptions either due to a statutory or strategic change results in a change to the DBE portion of the overall Diocesan Budget for the current financial year then the DDE will discuss this with the Finance Director and / or Diocesan Secretary in the first instance. Any approval of a change to funding of the DBE portion of the overall Diocesan Budget will involve the following stages:

- Where a change requires an increase in funding of less than 5% of the budgeted DBF Grant or less than 10% of other budgeted DBE funding, approval is at the discretion of the Finance Director and / or Diocesan Secretary in liaison with the DDE on behalf of the DBE.
- Where a change requires an increase in funding of more than 5% of the budgeted DBF Grant or more than 10% of other budgeted DBE funding, approval will be subject to decision by the Bishop's Leadership Team.



- Where the materiality of the change being considered for approval by the Bishop's Leadership Team (when aggregated with any other changes, for example from other teams, being considered by the Bishops Leadership Team) is considered to create an overall financial change of more than 5% to the overall Diocesan Budget, or to significantly change the risk profile or assumptions on which the Diocesan Budget was based, the Bishops Leadership Team will additionally seek Bishops Council (acting as the DBF) approval.
- Where Bishops Council (acting as the DBF) approval is required, Bishops Council (acting as the DBF) will consider whether the materiality of the change requires Diocesan Synod approval in addition to their approval.

6.4.4 The DBF will ensure that any funding requests from the DBE are considered and treated fairly and in line with the processes and procedures for other DBF departments.

## **6.5 Trading Company**

A trading company will be provided and maintained by the DBF and made available for trading educational services and resources as part of its scope.

## **6.6 People Management**

6.6.1 The DBF is and will continue to be the employer of all individuals who work in connection with the DBE (the '**Education Team**').

6.6.2 Any appointments to the Education Team will be subject to agreement and approval both in terms of budget [and job description] by Bishop's Leadership Team (after consultation with the Diocesan Secretary and Head of HR & Safeguarding) in advance of advertisement and those appointments will be in accordance with all employment policies and staff pay arrangements approved from time to time by the DBF and its REMCO sub-committee.

6.6.3 The Diocesan Director of Education will be line managed by a person appointed by the Diocesan Bishop. Members of the Education Team will be line managed by the Diocesan Director of Education and their senior team, who will provide day-to-day leadership in support of the delivery of the strategic priorities of the DBE in accordance with its functions.

## **6.7 Communications**

- 6.7.1 Through the work of the Education Team and in consultation with the Diocesan Head of Communications, the DBE will manage its internal communications with schools, parishes and clergy through use of diocesan channels via regular mailings, telephone / online conversations, email and onsite visits.
- 6.7.2 The DBE will draw on the advice and support of the Diocesan Head of Communications before releasing external communication or communication that could have external interest.
- 6.7.3 The DBE will recommend that all Church of England schools within the Diocese that they should continue to draw on the advice of the Diocesan Head of Communications when managing critical incidents.

## **7 Policy**

The DBE will adhere to-

- a) the DBF's policies on:
- Safeguarding ensuring that it meets the requirements of the Keeping Children Safe in Education (KCSIE) statutory guidance provided by the DFE for all schools
  - Serious Incident Reporting
  - Data protection policies and document retention
  - IT requirements and policies
  - Financial Investments
  - Conflicts of interest
  - Code of Conduct
  - Local Church House Guildford protocols
  - Financial approvals
  - Staff policies and guidelines
- b) The Church of England Measures relating to property and other relevant matters

## **8 Reporting requirements**

### **8.1 Diocesan Synod**

- 8.1.1 The DBE must, as soon as practicable after the end of each year, make a report to the Diocesan Synod as required by Article 18 of the Scheme on the exercise of

the DBE's functions in that year that includes a summary of key activities and operation of the DBE through the year;

- 8.1.2 In the interim, in accordance with Article 18 of the Scheme, the DBE must keep the Standing Committee of Diocesan Synod (Bishop's Council) aware of any significant events, as soon as practical, and provide a termly summary of progress in the discharge of its functions;
- 8.1.3 The reporting of serious incidents, safeguarding or otherwise, should follow the Guildford Diocese Serious Reporting protocol as well as any necessary statutory education requirements. In summary:
- (a) Safeguarding incidents which involve members of the DBE or DBE officers should be reported to the Diocesan Safeguarding Officer;
  - (b) Finance incidents should be reported to the Diocesan Secretary and Finance Director;
  - (c) Data protection breaches should be reported to the Diocesan Secretary and Data Protection Officer;
  - (d) All other non-safeguarding incidents to be reported to the Diocesan Secretary or their Deputy.

## 8.2 The DBF

The activities of the DBE will be reported to the DBF through the circulation of the DBE reports, minutes and through an annual presentation to the DBF by the Diocesan Director of Education.

## 9 **Umbrella trusts and other corporate entities**

9.1 The umbrella trust shall, under powers delegated to it by the DBF, in its role as the DBE, act as Diocesan Corporate Member for each Church of England Academy or Academy Trust established in the Diocese.

9.2 The umbrella trust shall report three times a year to the DBE and in addition shall report each time it has, on behalf of, and in consultation with, the DBE, approved the creation of a new Church of England academy or Academy Trust.

## 10 **Properties and Education charities**

The DBE and the DBF will establish a joint Property Reference Group of the DBE and DBF. For property matters of material significance the group's purpose will be to:

- a) provide guidance and advice on property/site disposal, development and acquisition;
- b) provide guidance and advice on property leases and contracts including tender processes;
- c) provide guidance and advice on the assessment and mitigation of risks associated with a & b;
- d) provide scrutiny and assurance on the due diligence associated with a, b & c;
- e) ensure that DBE & DBF members are provided with the necessary supporting information and documentation to enable their respective decision making and approvals for property matters of significance to be undertaken with confidence.

Property matters supported by the joint Property Reference Group will include matters related to school sites and USTs as well as property matters for the DBF.

The DBF and DBE are committed to ensuring that the property matters supported by the joint Property Reference Group are suitably resourced in the form of appropriate joint additional officer capacity and professional adviser support. This joint resource, which will be reviewed and respectively budgeted for annually against the forecast pipeline of UST and DBF property matters, will be funded from funds respectively generated (and or forecast to be generated) as a result of property / site sales and / or development.

### **10.1 Asset Management**

All Uniform Statutory Trust Funds are held by the DBF on behalf of the DBE.

The DBE as the statutory body for Church schools under the Measure will make decisions in relation to UST properties and former school sites and following scrutiny from the joint property reference group will bring these to Bishop's Council for signature and approval.

The DBE's Buildings team and the DBF's property team will work closely on all matters which require the DBF to act as signatory to the USTs on behalf of the DBE

### **10.2 School Trusts**

The DBE will provide the effective and legal management of local and uniform statutory trusts relating to Church of England schools and school houses across the

Diocese through its Schools Property Team who will liaise with the DBF's property team, to keep them aware and to seek advice and support.

All relevant paperwork will be signed, or signed and executed, by the DBF in accordance with DBF policy where the DBF is acting as custodian trustee on behalf of the DBE. In its role as custodian trustee, the DBF will respect the direction of the DBE in this regard.

### 10.3 School Sites

The DBE will provide the effective and legal management of Church School sites where the DBF acts as the Site Trustee on behalf of the DBE through the Schools Property Team who will liaise with the DBF's property team, to keep them aware and to seek advice and support.

All relevant paperwork will be signed, or signed and executed, by the DBF in accordance with DBF policy where the DBF is acting as custodian trustee on behalf of the DBE.

### 10.4 Reporting

Any significant variation to any Trust or school site will be reported to the DBE and Diocesan DBF by the relevant officer.

## 11 **Academy conversions**

11.1 After following its own due diligence procedures, the DBE will bring the necessary documentation to Bishop's Council where the DBF acts as the site trustee for a Church school seeking to become an academy.

11.2 Following Bishop's Council review, the DBF will authorise the Diocesan Secretary and a DBF trustee to sign, seal the legal documents necessary for the academy conversion of a Church school to take place, ensuring that the DBE's own procedures have been followed.

11.3 Documents will be provided to the DBF in good time by the DBE to allow for review and signature in a timely manner in order to prevent delay and ensure a smooth transition for the school to academy status.

## 12 **Meetings**

## **12.1 Quorum**

A duly convened meeting of the DBE at which a quorum of greater than 50% of members including the Chair or the Vice Chair acting on their behalf, at least one of whom must be an elected/appointed DBE member, is present shall be competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the DBE.

## **12.2 Frequency of Meetings**

It is for the DDE, at the request of the chair of the DBE or any two members or the DBE, to convene a meeting of the DBE.

The DBE will meet once every school half-term and must meet at least 3 times a year.

## **12.3 The Chair**

The Chair of the DBE will be a member of the DBE and appointed in consultation with the Diocesan Bishop. All meetings will be chaired by the Chair. In the absence of the Chair, the Vice-Chair, elected by the members shall chair the meeting.

## **12.4 Notice of meetings**

12.4.1 Unless otherwise agreed, notice of each meeting confirming the venue, time and date together with an agenda of the items to be discussed and any relevant papers should be sent to DBE members and those invited, no later than 5 working days before the date of the meeting.

12.4.2 If, at the invitation of the DBE Committee, the Diocesan Secretary/DSA or any member of the DBF who is not a member of the DBE are invited to attend the whole or part of the DBE meeting, notice of the meeting must be given to the person as soon as reasonably practicable before the meeting.

12.4.3 If it is not reasonably practicable for the relevant papers for a meeting of the DBE to accompany the notice of the meeting, the papers must be given to each person who received the notice of the meeting as soon as it is reasonably practicable.

## **12.5 Attendance at meetings**

12.5.1 The Diocesan Director of Education will act as Secretary to the DBE. They may be invited to speak at the discretion of the chair and cannot vote

12.5.2 The DBE may invite the Diocesan Secretary/DSA or any member of the DBF who is not a member of the DBE to attend the whole or part of a meeting and a person so invited may speak but cannot vote.

12.5.3 The DBE may invite any other person to attend the whole or part of a meeting (including officers of the DBE) and such person may speak only at the discretion of the chair and cannot vote.

12.5.4 The members of the DBE may ask any or all of those who normally attend meetings of the DBE but who are not members of the DBE to withdraw from the discussion of particular matters to facilitate open and frank discussion.

12.5.5 Where a member of the DBE participates in a DBE meeting by means of a conference call or other facility which enables everyone taking part in the meeting to hear each other, the participation by that member in that way is to be treated as being present at the meeting; and the member is accordingly to be counted for the purpose of working out whether there is a quorum and is entitled to vote at the meeting.

12.5.6 Where there is a meeting of the DBE at which one or more members are present in the way described in paragraph [x] above, the meeting is to be documented as being held:

- (a) at the place at which there is the largest number of DBE members present (including in the way described in paragraph [x]) or;
- (b) if there is no one place which meets that description, at the place at which the chair of the meeting is present.

12.5.7 A decision at any meeting is to be taken by a majority vote of members present at the meeting (including in the way described in paragraph [x]).

12.5.8 If there is a tied vote at a meeting, the Chair has a second, casting vote.

## **12.6 Minutes of meetings**

12.6.1 The DDE is secretary to the DBE and is responsible for ensuring that a record of the proceedings and decisions of each meeting is made, including the names of those present and in attendance and any declarations of conflicts of interest or loyalty, in accordance with the Board of Finance's conflicts of interest and loyalty policy.

12.6.2 A draft of the minutes of each meeting must be circulated promptly to each member of the DBE for approval.

12.6.3 Once the minutes of a meeting are approved, the minutes must be sent to every member of the DBE and to the Diocesan Secretary and, if the content relates to safeguarding, the DSA and may be sent to other persons as the DBE thinks appropriate.

## **12.7 Decisions without a meeting**

12.7.1 A resolution in writing signed by a majority of the members of the DBE is as valid and effective as if it had been passed at a meeting of the DBE duly convened and held.

12.7.2 A member of the DBE may signify agreement to a proposed written resolution:

- (a) by signing a hard copy;
- (b) by email sent from the email address which the member usually uses in connection with the affairs of the DBE ; or
- (c) if the DBE has approved the use of some other electronic means for this purpose, by that electronic means.

12.7.3 The DBE is to be treated as taking a majority decision on a matter if a majority of the members indicate to each other by electronic means that they share a common view on the matter. Such a decision may (but need not) take the form of a written resolution passed in accordance with paragraph [x].

12.7.4 A resolution in writing or a decision taken in the way described in paragraph [x] must be duly reported and minuted at the next meeting of the DBE and a copy of the resolution in writing must be sent to the Diocesan Secretary within 5 working days of it having been passed.

## **12.8 Review**

These terms of reference will be reviewed by the DBF and DBE every three years or as often as deemed appropriate at the next review. The Diocesan Secretary and Chair of the DBF, together with the DDE and Chair of the DBE, will act as a Review Group (convened by the DDE) and thus be delegated to commence the review and agree revisions; however, any proposed amendments must then be approved by the DBE and the DBF at Bishop's Council.

The status of the DBE as a statutory committee of the DBF will be formally reviewed after three years with a view to ensuring that the statutory responsibilities and functions of the DBE are delivered most effectively through this option and thereafter at a period deemed to be appropriate; the options to incorporate or become a Charitable Incorporated Organisation (CIO) will be considered as part of this review

Terms of Reference approved by the DBE on [date]

Terms of Reference approved by the Board of Finance [date]



## Appendix 1 Membership of the DBE

From Articles 5, 7 and 8 of the Diocesan Board of Education Scheme

### Members

5. (1) The DBE shall comprise at least eleven members who are—
- (a) the Bishop,
  - (b) at least one but not more than two members appointed by the Bishop,
  - (c) at least three but not more than nine members elected by the Diocesan Synod in accordance with the provisions of Article 7, and
  - (d) any such persons who may be co-opted by the DBE in accordance with the provisions of Article 8.
- (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.
- (4) A person is not eligible to be a member of the DBE if the person is an officer or employee of the Diocesan Board of Finance.

### 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 and in accordance with the provisions of this Article 7.
- (3) Candidates for election need not themselves be members of Diocesan Synod but must worship in, work in or live in the Diocese and may only be submitted to election after consultation with the Bishop's Council, the Bishop and the Diocesan Director of Education and they shall:
- (a) ensure that candidates are proposed who, if appointed, will meet the requirements of the categories of membership detailed at paragraph 7(6); and
  - (b) have due regard to the skills mix and experience of the DBE.
- (4) Following such consultation, a list of candidates ("Candidate List") will be provided to Diocesan Synod for election.
- (5) In the event that, following such consultation, if any of the Bishop's Council, the Bishop or the Diocesan Director of Education (acting reasonably) inform the Diocesan Synod that they have concerns about any of the candidates, the Diocesan Synod shall not proceed with the election process for that individual until such time as reasonable steps have been taken to address any such concerns.
- (6) Elections shall be undertaken by the Diocesan Synod to elect persons into the membership of the DBE from a Candidate List comprised of the following categories:-
- a) At least one member who is an elected member of Bishop's Council;

- b) At least two school leaders from schools or academy trusts within the Diocese and who may be lay members or Clerks in Holy Orders;
  - c) At least two additional lay members and
  - d) At least two Clerks in Holy Orders, beneficed or licensed in the Diocese.
- (7) 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.
- (8) The period specified for the purposes of paragraph (7)(c) must not exceed three years with any re-election in line with Article 9.

### **Co-options**

- 8.** (1) Where, having undertaken elections in accordance with the provisions of Article 7, it has not been possible for the Diocesan Synod to elect members to fill any one or more vacancies, the DBE shall have the power to co-opt up to 5 persons to fill any such vacancies or subsequent casual vacancies. In the event that, having filled any such vacancies, there are fewer than 5 co-opted members of the DBE, the DBE may appoint up to 3 persons to fill specific skill or category gaps, provided that the aggregate number of co-options may not exceed 5 at any time.
- (2) 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 subject to the provisions of Article 9.

## Appendix 2 Terms of Reference for Joint Property Reference Group

### Joint DBF/DBE Property Reference Group - Terms of Reference

**Scope:** To review all DBF and DBE property matters of material significance such as acquisitions, sales and leases to ensure proper process and all financial, legal and risk due diligence has been completed. To agree approach and strategy for all acquisitions, disposals and leases.

**Members:** DBF Head of Property, DBE Buildings Officer(s), 3 DBF Trustees and 3 DBE members.

**Frequency of meetings:** Review by email with hybrid meetings as necessary

**Procedure:** Ensure that all transactions are carried out according to:

- Church of England measures, eg Property Measure 2018
- Charities Act 2011 (and, once effective, the Charities Act 2022)
- The DBF Article of Association

Leases should be agreed within the following parameters:

- Less than 7 years, certainly less than 21 years - negotiable
- Contracted out of the Landlord and Tenant Act – non-negotiable
- Inflation proofed rental income paid on either a monthly or quarterly basis, tied to RPI, increasing annually – non-negotiable
- 5 year open market rent reviews for long leases
- An upfront premium payment, say 5-10% of the total rental sum over the lease period – negotiable
- Access rights
- Tenant responsible for maintenance and keeping in good repair
- Insurance? Perhaps we insure the land/building and the tenant the contents and activity liability
- Restrictions on use – this could be very variable depending on whether trusts and land use restrictions were already in play
- Diocese legal fees covered by the tenant – negotiate against the upfront premium
- Termination rights for either party are clear
- Etc.

**Levels of delegation:**

Short term leases up to 3 years, providing that:

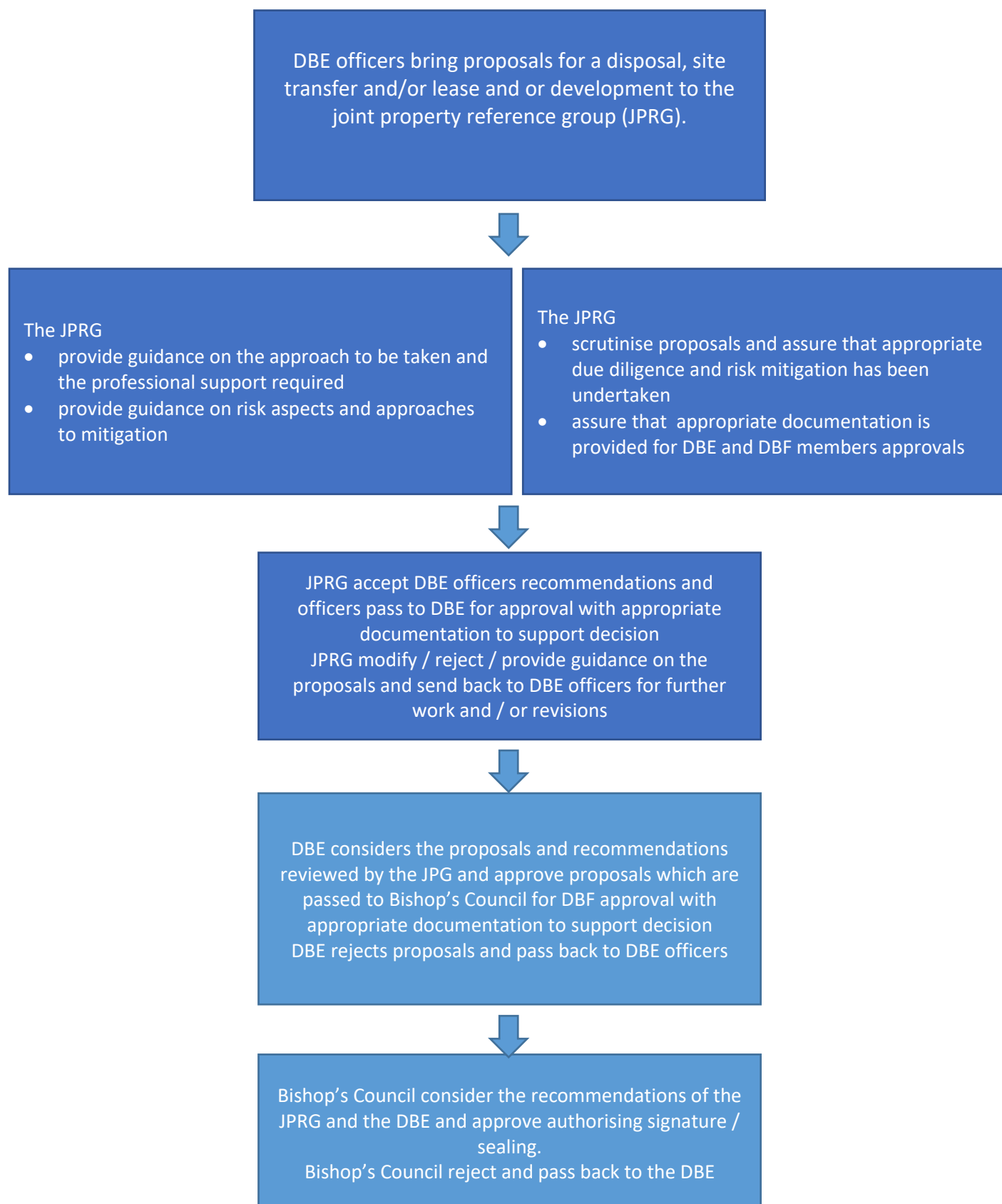
- There is no significant perceived liability or reputational risk
- Financial impact is < £50k

**Conduct of meetings:**

- All meetings will be minuted with actions and owners clearly documented.

## DBE Property and School Sites

### Processes for authorisation and sign-off of disposals, site transfers and leases for school sites



Appendix 3 List of Education Sites, Trusts and Charities

Esher CofE High School (CA)	GDBF
St Lawrence CofE (Aided) Junior School, East Molesey	GDBF (Part)
St Mary's CofE (Aided) Primary School, Chessington	GDBF (Part)
Riverview CofE (Aided) Primary, Ewell	GDBF
St Martin's C of E (Aided) Junior School, Epsom	GDBF
St Martin's CofE (Aided) Infant School, Epsom	GDBF
Christ's College CofE Secondary, Guildford (CA)	GDBF
Queen Eleanor's CofE Junior School (CA)	GDBF
Chilworth CofE (Aided) Infant School	GDBF
Holy Trinity CofE (Aided) Junior, Guildford	GDBF
Pewley Down CofE (Aided) Infant School. Guildford	GDBF (Nominated)
Puttenham CofE (Aided) Infant School	GDBF (Part)
St Nicolas CofE (Aided) Infant School, Guildford	GDBF
Send CofE (Aided) Primary School	GDBF (Nominated)
Shere CofE (Aided) Infant School	GDBF (Part)
Merrow CofE (Controlled) Infant School, Guildford	GDBF (Part)
St Mary's CofE (Controlled) Infant School, Shackleford	GDBF
Walsh CofE (Controlled) Junior School, Ash	GDBF (Part)
Walsh Memorial CofE (Controlled) Infant School, Ash	GDBF (Part)
Rowledge CofE (Controlled) Primary School	GDBF (Part)
St Michael's CofE (Controlled) Infant, Aldershot	GDBF (Part)
St Michael's CofE (Controlled) Junior, Aldershot	GDBF (Part)
St John's CofE Primary School, Dorking (CA)	GDBF
The Priory CofE (Aided) Secondary School	GDBF
St Giles' CofE (Aided) Infant School, Ashted	GDBF (Part)
Leatherhead Trinity (Controlled) School	GDBF
St Martin's CofE (Controlled) Primary, Dorking	GDBF (Part)
St Paul's CofE Primary School, Addlestone (CA)	GDBF

Ottershaw CofE Infant (CA)	GDBF
Ottershaw CofE Junior (CA)	GDBF
Potters Gate CofE Primary, Farnham (CA)	GDBF
Waverley Abbey CofE Junior School, Farnham (CA)	GDBF
Busbridge CofE (Aided) Junior School	GDBF (Part)
St Marks & All Saints CofE Primary School (CA)	GDBF
Bramley CofE (Aided) Infant & Nursery School	GDBF (Part)
Witley CofE (Controlled) Infant School	GDBF (Part)
Horsell CofE (Aided) Junior School	GDBF (Part)
Former site of St Bede's Junior School	GDBF
Former site of St Nicolas Infant School	GDBF

<b>UST - Diocese of Guildford Consolidated Educational Endowments</b>
The Trinity Centre, Leatherhead
Abinger School & House
41 Ashenden Road
Pixham Annex
Chilworth Field
Education Centre

## **Appendix 4 Significant Failure Examples and Process**

### **PART 1: Board of Finance delegation of DBE Functions to the DBE Committee**

#### **1.1 Scheme**

The making of a Scheme in accordance with the 2021 Measure is required to designate an entity as the DBE for each diocese. Template schemes are being provided by the CEEO for individual dioceses to tailor to their individual circumstances and needs

#### **1.2 What is a DBE Committee of the Board of Finance?**

Where the Board of Finance is designated as the DBE for a diocese by Scheme, a committee of the Board of Finance is established to exercise the DBE Functions. This statutory committee is the DBE Committee and, as such, exercises all the DBE Functions in the diocese which are delegated to it by the Board of Finance in accordance with the provisions of the 2021 Measure, the Scheme and the terms of reference made by the Board of Finance (see Part 4).

#### **1.3 How should the Board of Finance delegate its DBE Functions to the DBE Committee?**

The 2021 Measure requires the Scheme to provide for the Board of Finance to delegate its DBE Functions<sup>6</sup> to the DBE Committee. Article 3 of the template scheme in Appendix 1 to this guidance provides for the DBE Functions to be delegated by the Board of Finance to the DBE Committee. It also provides for the Board of Finance to set terms of reference for the DBE Committee in relation to its exercise of its DBE Functions and procedural matters.

The Board of Finance may not exercise any DBE Functions unless there is a significant failure<sup>7</sup> by the DBE Committee.

### **PART 2: Significant Failure**

#### **2.1 Can the Board of Finance in its own right exercise any of the DBE Functions delegated to the DBE Committee?**

No, other than in exceptional circumstances<sup>8</sup>. The Board of Finance may not in its own right exercise any DBE Function delegated to the DBE Committee unless it is satisfied that:

- (a) the DBE Committee (or a sub-committee of the DBE Committee) is failing to act in accordance with the 2021 Measure or the Scheme in relation to a particular DBE Function; and
- (b) the failure is significant.

In this guidance this is referred to as a “Significant DBE Function Failure”.

#### **2.2 What might a Board of Finance properly consider to be ‘significant’ for these purposes?**

Whether a failure may or may not be considered to be “significant” for these purposes will depend on the context and circumstances of the failure, as these factors will determine the materiality of the failure and will affect the likely or actual impact of that failure. A Board of Finance that considers a failure by the DBE Committee is or may be a Significant DBE Function Failure for these purposes should seek professional advice. Examples of what may constitute a Significant DBE Function Failure include (but are not limited to):

- (a) A deliberate breach of trust or ultra vires act;

(b) Action or inaction which constitutes a significant risk to the assets or reputation of the DBE and/or the Board of Finance; and

(c) Failure to follow the requirements set out in the House of Bishops' safeguarding guidance and policy which results in harm to a child or vulnerable adult.

### **2.3 If a Board of Finance considers that there may be a Significant DBE Function Failure, what should it do?**

If a Board of Finance considers that there may be a Significant DBE Function Failure, it should first seek legal and/or any other professional advice<sup>9</sup> that may be required in the circumstances.

It is very important that the Board of Finance takes any decision properly, before exercising a DBE Function as a result of a Significant DBE Function Failure and sets out the reasons for its decision in writing. In order to demonstrate that the decision has been properly taken, the Board of Finance should:

- (a) Satisfy itself that the failure being considered is capable of being a Significant DBE Function Failure;
- (b) Record the declaration of any conflicts of interest or loyalty in relation to the matter being considered and how those conflicts were managed;
- (c) Follow correct procedure (e.g. the meeting is properly called, quorate and minuted);
- (d) Ensure that there is evidence of the Significant DBE Function Failure;
- (e) Provide the DBE with a right to reply and consider any reply from the DBE;
- (f) Ensure that the decision as to whether the failure is significant:
  - 1) Is evidence based;
  - 2) Is rational, proportionate and not unreasonable in the circumstances;
  - 3) Takes all relevant considerations into account and does not take any irrelevant considerations into account;
  - 4) Considers the legal and any other professional advice obtained; and
  - 5) Is made for a proper purpose (i.e. there is no ulterior motive).

The Board of Finance should ensure that the extent to and timeframe for which any DBE Functions are exercised by the Board of Finance as a result of the Significant DBE Function Failure are proportionate and do not unreasonably impede or restrict the ability of the DBE Committee to exercise its other DBE Functions under the 2021 Measure or the Scheme.



## Appendix 5 – The DBE Measure 2021