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**Companies Acts 1985 to 2006**

**Company limited by guarantee**

**Incorporated on 7<sup>th</sup> July 1905**

**CHESTER DIOCESAN BOARD OF EDUCATION**

**Amended on 24 April 2017**

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Ref: HJD/COR/301601054

Companies Acts 1985 to 2006

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**ARTICLES OF ASSOCIATION OF  
CHESTER DIOCESAN BOARD OF EDUCATION**

**1. Object**

The **Object** for which the **Board** is established is:

- 1.1 to act as the Education Authority for the Church of England in the **Diocese** and to exercise and perform within the **Diocese** the rights powers duties and obligations by the **Measure**, and any amendments and re-enactments, given to and imposed on it by that **Measure**.<sup>1</sup>

**2. Powers**

The **Board** has the following powers, which may be exercised only in promoting the **Object**:

- 2.1 to hold land and other property on trust and to act as **custodian** trustee and (if duly authorised) as a trust corporation;
- 2.2 to undertake the functions of the **Diocesan Board of Education** for the **Diocese** in accordance with the provisions of the **Measure** and of any legislation amending, supplementing or replacing the same;
- 2.3 to provide advice or information;
- 2.4 to carry out research;
- 2.5 to co-operate with other bodies;
- 2.6 to support, administer or set up other charities;
- 2.7 to accept gifts and to raise funds (but not by means of **taxable trading**);

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<sup>1</sup> Words displayed in **bold** are defined in Article 16 (Interpretation)

- 2.8 to borrow money;
- 2.9 to give security for loans or other obligations (but only in accordance with the restrictions imposed by the **Charities Act**);
- 2.10 to acquire or hire property of any kind;
- 2.11 to let or dispose of property of any kind (but only in accordance with the restrictions imposed by the **Charities Act** and the **Education Acts**);
- 2.12 to make grants or loans of money and to give guarantees;
- 2.13 to set aside funds for special purposes or as reserves against future expenditure;
- 2.14 to deposit or invest its funds in any manner (but to invest only after obtaining such advice from a **financial expert** as the **Trustees** consider necessary and having regard to the suitability of investments and the need for diversification);
- 2.15 to delegate the management of investments to a **financial expert**, but only on terms that:
- (1) the investment policy is set down **in writing** for the **financial expert** by the **Trustees**;
  - (2) timely reports of all transactions are provided to the **Trustees**;
  - (3) the performance of the investments is reviewed regularly with the **Trustees**;
  - (4) the **Trustees** are entitled to cancel the delegation arrangement at any time;
  - (5) the investment policy and the delegation arrangement are reviewed at least once a **year**;
  - (6) all payments due to the **financial expert** are on a scale or at a level which is agreed in advance and are notified promptly to the **Trustees** on receipt; and
  - (7) the **financial expert** must not do anything outside the powers of the **Board**;
- 2.16 to arrange for investments or other property of the **Board** to be held in the name of a **nominee company** acting under the direction of the **Trustees** or controlled by a **financial expert** acting under their instructions, and to pay any reasonable fee required;
- 2.17 to deposit documents and physical assets with any company registered or having a place of business in England or Wales as **custodian**, and to pay any reasonable fee required;
- 2.18 to insure the property of the **Board** against any foreseeable risk and take out other insurance policies to protect the **Board** when required;
- 2.19 to pay for **indemnity insurance** for the **Trustees** or any other officer of the **Board**;
- 2.20 subject to **Article 6.3**, to employ (and remunerate) paid or unpaid agents, staff or advisers;

- 2.21 to enter into contracts to provide services to or on behalf of other bodies;
- 2.22 to establish or acquire subsidiary companies to assist or act as agents for the **Board**;
- 2.23 to pay the costs of forming the **Board**; and
- 2.24 to do anything else within the law which promotes or helps to promote the **Object**.

### **3. The Trustees**

- 3.1 The **Trustees** as **charity trustees** have control of the **Board** and its property and funds.
- 3.2 Subject to Articles 3.4 and 3.5, the **Members** for the time being shall also be **Trustees**.
- 3.3 The **Trustees** when complete consist of eleven persons who being individuals are over the age of 18, all of whom must support the **Object**.
- 3.4 A **Trustee** may not act as a **Trustee** unless:
  - (1) he/she is a **Member**; and
  - (2) has signed a written declaration of willingness to act as a **charity trustee**.
- 3.5 A **Trustee's** term of office as such automatically terminates if he/she
  - (1) ceases to be a **Member**;
  - (2) is disqualified under the Charities Act from acting as a **charity trustee**; or
  - (3) is incapable, whether mentally or physically, of managing his/her own affairs;
  - (4) is absent without permission from two consecutive meetings of the **Trustees** and is asked by a majority of the other Trustees to resign;
  - (5) resigns by written notice to the **Trustees** (but only if at least two **Trustees** will remain in office); or
  - (6) is removed by the **Members** at a general meeting under the Companies Act.
- 3.6 A technical defect in the appointment of a **Trustee** of which the **Trustees** are unaware at the time does not invalidate decisions taken at a meeting.

### **4. Trustees' proceedings**

- 4.1 The **Trustees** must hold at least three meetings each **year** and an additional meeting shall be held if at any time five or more **Members** make a request **in writing** to the **Chair** for the holding of such a meeting.

- 4.2 A quorum at a meeting of the **Trustees** is five **Trustees** of which three shall be **Members** appointed by the **Diocesan Synod**.
- 4.3 A meeting of the **Trustees** may be held either in person or by suitable **electronic means** agreed by the **Trustees** in which all participants may simultaneously communicate with all the other participants but at least one meeting in each **year** must be held in person.
- 4.4 The **Chair** or (if the **Chair** is unable or unwilling to do so) some other **Trustee** chosen by the **Trustees** present presides at each meeting.
- 4.5 Except where otherwise provided by these **Articles** or the **Companies Act**, a **written resolution** (whether an **ordinary** or a **special resolution**) is as valid as an equivalent resolution passed at a general meeting. For this purpose the **written resolution** may be set out in more than one document.
- 4.6 Every **Trustee** has one vote on each issue but, in case of equality of votes, the **Chair** of the meeting has a second or casting vote.
- 4.7 A procedural defect of which the **Trustees** are unaware at the time does not invalidate decisions taken at a meeting.
- 4.8 The Trustees may act notwithstanding any vacancies in their number but if the number of Trustees is less than the number fixed as a quorum, the continuing Trustee may act only for the purpose of filling vacancies or of calling a general meeting.

## 5. **Trustees' powers**

The **Trustees** have the following powers in the administration of the **Board** in their capacity as **Trustees**:

- 5.1 to appoint honorary officers (but not **Chair** or **Secretary**) from among their number;
- 5.2 to delegate any of their functions to committees consisting of two or more individuals appointed by them. At least one member of every committee must be a **Trustee** and all proceedings of committees must be reported promptly to the **Trustees**;
- 5.3 to make standing orders consistent with the **Measure**, the **Order**, the **Memorandum**, the **Articles** and the **Companies Act** to govern proceedings at general meetings;
- 5.4 to make rules consistent with the **Measure**, the **Order**, the **Memorandum**, the **Articles** and the **Companies Act** to govern their proceedings and proceedings of committees;
- 5.5 to make regulations consistent with the **Measure**, the **Order**, the **Memorandum**, the **Articles** and the **Companies Act** to govern the administration of the **Board** and the use of its **seal**. The **Board** may determine who shall sign any instrument to which the seal is affixed and unless otherwise so determined it shall be signed by a **Director** and by the **Secretary** or by a second **Director**;

- 5.6 to establish procedures to assist the resolution of disputes or differences within the **Board**; and
- 5.7 to exercise in their capacity as **Trustees** any powers of the **Board** which are not reserved to them in their capacity as **Members**.

## **6. Benefits and Conflicts**

- 6.1 The property and funds of the **Board** must be used only for promoting the **Object** and do not belong to the **Members** but, subject to compliance with **Article 6.4**:
- (1) **Members** (being **Trustees**) and **Connected Persons** may be paid interest at a reasonable rate on money lent to the **Board**;
  - (2) **Members** (being **Trustees**) and **Connected Persons** may be paid a reasonable rent or hiring fee for property let or hired to the **Board**; and
  - (3) Individual **Members** (being **Trustees**) and **Connected Persons** may receive charitable benefits on the same terms as any other members of the beneficial class.
- 6.2 A **Trustee** must not receive any payment of money or other **material benefit** (whether directly or indirectly) from the **Board** except:
- (1) as mentioned in **Articles 6.1** or **6.3**;
  - (2) reimbursement of reasonable out-of-pocket expenses (including hotel and travel costs) actually incurred in running the **Board**;
  - (3) the benefit of **indemnity insurance** as permitted by the **Charities Act**;
  - (4) an indemnity in respect of any liabilities properly incurred in running the **Board** (including the costs of a successful defence to criminal proceedings);  
or
  - (5) in exceptional cases, other payments or benefits (but only with the written consent of the **Commission** in advance and where required by the **Companies Act** the approval or affirmation of the **Members**).
- 6.3 No **Trustee** or **Connected Person** may be employed by the **Board** except in accordance with **Article 6.2(5)**, but any **Trustee** or **Connected Person** may enter into a written contract with the **Board**, as permitted by the **Charities Act**, to supply goods or services in return for a payment or other **material benefit** but only if:
- (1) the goods or services are actually required by the **Board**, and the **Trustees** decide that it is in the best interests of the **Board** to enter into such a contract; and
  - (2) the nature and level of the remuneration is no more than is reasonable in relation to the value of the goods or services and is set in accordance with the procedure in **Article 6.4**; and

- (3) fewer than one third of the **Trustees** are subject to such a contract in any **financial year**.
- 6.4 Subject to **Article 6.5**, any **Trustee** who becomes a **Conflicted Trustee** in relation to any matter must:
  - (1) declare the nature and extent of his or her interest before discussion begins on the matter; and
  - (2) withdraw from the meeting for that item after providing any information requested by the **Trustees**; and
  - (3) not be counted in the quorum for that part of the meeting; and
  - (4) be absent during the vote and have no vote on the matter.
- 6.5 When any **Trustee** is a **Conflicted Trustee**, the **Trustees** who are not **Conflicted Trustees**, if they form a quorum without counting the **Conflicted Trustee** and are satisfied that it is in the best interests of the **Board** to do so, may by resolution passed in the absence of the **Conflicted Trustee** authorise the **Conflicted Trustee**, notwithstanding any conflict of interest or duty which has arisen or may arise for the **Conflicted Trustee**, to:
  - (1) continue to participate in discussions leading to the making of a decision and/or to vote; or
  - (2) disclose to a third party information confidential to the **Board**; or
  - (3) take any other action not otherwise authorised which does not involve the receipt by the **Conflicted Trustee** or a **Connected Person** of any payment or **material benefit** from the **Board**; or
  - (4) refrain from taking any step required to remove the conflict.
- 6.6 This **Article 6** may be amended by **special resolution** but, where the result would be to permit any **material benefit** to a **Trustee** or **Connected Person**, only with the prior **written** consent of the **Commission**.

## **7. Records and Accounts**

- 7.1 The **Trustees** must comply with the requirements of the **Companies Act** and of the **Charities Act** as to keeping records, the audit or independent examination of accounts and the preparation and transmission to the Registrar of Companies and the **Commission** of information required by law including:
  - (1) annual returns;
  - (2) annual reports; and
  - (3) annual statements of account.

- 7.2 The **Trustees** must also keep records of:
- (1) all proceedings at meetings of the **Trustees**;
  - (2) all **written resolutions**;
  - (3) all reports of committees; and
  - (4) all professional advice obtained.
- 7.3 Accounting records relating to the **Board** must be made available for inspection by any **Trustee** at any time during normal office hours.
- 7.4 A copy of the **Board's constitution** and latest available statement of account must be supplied on request to any **Trustee**. Copies of the latest accounts must also be supplied in accordance with the **Charities Act** to any other person who makes a written request and pays the **Board's** reasonable costs.

## **8. Membership**

- 8.1 The **Board** must maintain a register of **Members**.
- 8.2 The **Board** shall consist of:
- (1) the **Bishop** or the **Bishop's** nominee;
  - (2) one person nominated by the **Bishop**;
  - (3) seven members appointed by the **Diocesan Synod** who are worshipping members of the Church of England but need not themselves be members of the **Diocesan Synod** (the appointed **Members**), of whom:
    - (a) at least three members shall be appointed from each of the two archdeaconries of the **Diocese**, being people who work, worship or reside in the archdeaconry from which they are appointed, and
    - (b) at least one member shall be a clerk in holy orders beneficed or licensed in the **Diocese**;
  - (4) two members co-opted by the **Board** who shall be persons with experience of church schools in the **Diocese**.
- 8.3 The appointment of the appointed **Members** of the **Board** shall take place every three **years** in the same **year** as, but after, the election of members of the **Diocesan Synod**; and the appointed **Members** shall be appointed in such manner as may be determined by the **Diocesan Synod** by which they are appointed.
- 8.4 The appointed **Members** shall begin to hold office on 1<sup>st</sup> January next following their appointment.
- 8.5 Any casual vacancy among the appointed **Members** shall be filled in such manner as may be determined by the **Diocesan Synod**.



- 8.6 All **Members** of the Board other than the **Bishop** shall cease to hold office on the 1<sup>st</sup> January on which the newly appointed **Members** begin to hold office, except that a **Member** of the Board shall be eligible for re-appointment on the expiry of any period of office.
- 8.7 A person who is in receipt of any remuneration as an officer or member of the staff of the **Board** shall not be eligible for **Membership** of the **Board**.
- 8.8 Every **Member** shall sign the register of **Members** or consent **in writing** to become a **Member**.
- 8.9 **Membership** is terminated if the **Member** concerned:
- (1) gives written notice of resignation to the **Board**;
  - (2) dies; or
  - (3) ceases to be eligible for **Membership**.
- 8.10 **Membership** of the **Board** is not transferable.

## **9. Chair, President, Secretary and Treasurer**

- 9.1 The **Bishop** shall be **Chair** of the **Board** except that, if the **Bishop** does not desire to be **Chair**, the **Board** after consultation with the **Bishop**, shall appoint some other person (whether or not a **Member** of the **Board**) to be **Chair** the **Board**, and the person so appointed shall be an ex-officio member of the **Diocesan Synod**.
- 9.2 The President of the **Board** shall be the **Bishop**.
- 9.3 The **Secretary** and Treasurer of the **Board** shall be the Diocesan Director of Education. The Trustees may appoint other officers on such terms as to remuneration or otherwise as they think fit.

## **10. General Meetings**

- 10.1 **Members** are entitled to attend general meetings in person or by proxy (but only if the appointment of a proxy is **in writing** and notified to the **Secretary** before the commencement of the meeting).
- 10.2 (1) The minimum periods of notice required to hold a general meeting are:
- (a) 21 **clear days** for an **AGM** or a general meeting called for the passing of a **special resolution**;
  - (b) 14 **clear days** for all other general meetings;
- (2) A general meeting may be called by shorter notice if it is so agreed by a majority in number of members having a right to attend and vote at the

meeting, being a majority who together hold not less than 90 percent of the total voting rights.

- (3) The notice must specify the date, time and place of the meeting and the general nature of the business to be transacted. If the meeting is to be an **AGM**, the notice must say so. The notice must also contain a statement setting out the right of members to appoint a proxy under section 324 of the Companies Act 2006.
  - (4) The notice must be given to all the **Members** and to the **Trustees** and auditors, and any third party entitled to attend meeting of the **Board**.
- 10.3 There is a quorum at a general meeting if the number of **Members** present in person is at least five, of whom at least three are **Members** appointed by **the Diocesan Synod**.
- 10.4 The **Chair** presides at a general meeting or if the **Chair** is unable or unwilling to do so some other **Member** is elected by the **Members** present in person or by proxy in his/her personal capacity as a **Member** and not as proxy for another **Member** to do so.
- 10.5 Except where otherwise provided by these **Articles** or the **Companies Act**, every issue is to be decided by **ordinary resolution**.
- 10.6 Every **Member** present in person or by proxy shall have one vote on each issue.
- 10.7 Except where otherwise provided by these **Articles** or the **Companies Act**, a **written resolution** (whether an **ordinary** or a **special resolution**) is as valid as an equivalent resolution passed at a general meeting. For this purpose the **written resolution** may be set out in more than one document.
- 10.8 The **Board** must hold an **AGM** in every **year** and not more than 15 months may elapse between the date of one **AGM** and that of the next. The **Board** shall hold at least two other meetings in each **year**.
- 10.9 **Members** (being **Trustees**) must annually at the **AGM**:
- (1) receive the accounts of the **Board** for the previous **financial year**;
  - (2) receive a written report on the **Board's** activities;
  - (3) appoint reporting accountants or auditors for the **Board**, and may:
  - (4) confer on any individual (with his/her consent) the honorary title of Patron, of the **Board**; and
  - (5) discuss and determine any issues of policy or deal with any other business put before them by the **Trustees**.
- 10.10 A general meeting may be called by the **Trustees** at any time and must be called within 21 **clear days** on a **written request** to the **Chair** from at least three **Members**.

10.11 A technical defect in the appointment of a **Member** of which the **Members** are unaware at the time or the existence of any vacancy among the **Members** does not invalidate a decision taken at a general meeting or a **written resolution**.

## **11. Limited Liability**

The liability of **Members** is limited.

## **12. Guarantee**

Every **Member** promises, if the **Board** is dissolved while he/she remains a **Member** or within one **year** after he/she ceases to be a **Member**, to pay up to £1 towards:

- 12.1 payment of those debts and liabilities of the **Board** incurred before he/she ceased to be a **Member**;
- 12.2 payment of the costs, charges and expenses of winding up; and
- 12.3 the adjustment of rights of contributors among themselves.

## **13. Communications**

13.1 Notices and other documents to be served on **Members** or **Trustees** or third parties entitled to attend meetings of the **Board** under the **Articles** or the **Companies Act** may be served:

- (1) by hand;
- (2) by post;
- (3) by suitable **electronic means**; or
- (4) through publication in the **Board's** newsletter or on the **Board's** website.

13.2 The only address at which a **Member** is entitled to receive notices sent by post is an address in the UK shown in the register of **Members**.

13.3 Any notice given in accordance with these **Articles** is to be treated for all purposes as having been received:

- (1) 24 hours after being sent by **electronic means**, posted on the **Board's** website or delivered by hand to the relevant address;
- (2) two **clear days** after being sent by first class post to that address;
- (3) three **clear days** after being sent by second class or overseas post to that address;

(4) immediately on being handed to the recipient personally;

or, if earlier,

(5) as soon as the recipient acknowledges actual receipt.

13.4 A technical defect in service of which the **Trustees** are unaware at the time does not invalidate decisions taken at a meeting.

#### **14. Indemnity**

14.1 The **Board** shall indemnify any **Trustee** or former **Trustee** against liability incurred in that capacity, to the extent permitted by law.

14.2 The **Board** shall indemnify any other officer of the **Board** to the extent permitted by law.

#### **15. Dissolution**

15.1 If the **Board** is dissolved, the assets (if any) remaining after providing for all its liabilities must be applied in one or more of the following ways:

(1) by transfer to one or more other bodies established for exclusively charitable purposes within, the same as or similar to the **Object**;

(2) directly for the **Object** or for charitable purposes which are within or similar to the **Object**; or

(3) in such other manner consistent with charitable status as the **Commission** approves **in writing** in advance.

15.2 If the **Board** is dissolved, a final report and statement of account must be sent to the **Commission**.

#### **16. Interpretation**

16.1 These **Articles** are to be interpreted without reference to the model articles under the **Companies Act**, which do not apply to the **Board**.

16.2 In these **Articles**, unless the context indicates another meaning:

‘**AGM**’ means an annual general meeting of the Board;

‘**Articles**’ means the Board’s Articles of Association and ‘**Article**’ refers to a particular Article;

‘**Bishop**’ means the Bishop of Chester or during a vacancy in See another bishop acting under an instrument of delegation made pursuant to section 13 of the Dioceses,

Pastoral and Mission Measure 2007 or, failing that, another bishop empowered by law to exercise the Episcopal functions of the Bishop of Chester;

‘**Board**’ means the company governed by the **Articles**;

‘**Chair**’ means the chair of the **Board**;

‘**Charities Act**’ means the Charities Acts 1992 to 2011;

‘**charity trustee**’ has the meaning prescribed by the **Charities Act**;

‘**clear day**’ does not include the day on which notice is given or the day of the meeting or other event;

‘**Commission**’ means the Charity Commission for England and Wales or any body which replaces it;

‘**Companies Act**’ means the Companies Acts 1985 to 2006;

‘**Conflicted Trustee**’ means a **Trustee** in respect of whom a conflict of interest arises or may reasonably arise because the **Conflicted Trustee** or a **Connected Person** is receiving or stands to receive a benefit (other than payment of a premium for **indemnity insurance**) from the **Board**, or has some separate interest or duty in a matter to be decided, or in relation to information which is confidential to the **Board**;

‘**Connected Person**’ means, in relation to a **Trustee**, a person with whom the **Trustee** shares a common interest such that he/she may reasonably be regarded as benefiting directly or indirectly from any **material benefit** received by that person, being either a member of the **Trustee’s** family or household or a person or body who is a business associate of the **Trustee**, and (for the avoidance of doubt) does not include a company with which the **Trustee’s** only connection is an interest consisting of no more than 1% of the voting rights;

‘**constitution**’ means the **Memorandum** and the **Articles** and any **special resolutions** relating to them;

‘**custodian**’ means a person or body who undertakes safe custody of assets or of documents or records relating to them;

‘**Diocese**’ means the Diocese of Chester;

‘**Diocesan Board of Education**’ means that body constituted under the **Measure** for the **Diocese** and any successor body;

‘**Diocesan Synod**’ means the diocesan synod of the **Diocese**;

‘**Education Acts**’ has the same meaning as the definition of "Education Acts" contained in section 578 of the Education Act 1996;

‘**electronic means**’ refers to communications addressed to specified individuals by telephone, fax or email or, in relation to meetings, by telephone conference call or video conference;

‘**financial expert**’ means an individual, company or **firm** who is authorised to give investment advice under the Financial Services and Markets Act 2000;

‘**financial year**’ means the **Board’s** financial year;

‘**firm**’ includes a limited liability partnership;

‘**indemnity insurance**’ means insurance against personal liability incurred by any **Trustee** for an act or omission which is or is alleged to be a breach of trust or breach of duty, unless the act or omission amounts to a criminal offence or the **Trustee** concerned knew that, or was reckless whether, the act or omission was a breach of trust or breach of duty;

‘**material benefit**’ means a benefit, direct or indirect, which may not be financial but has a monetary value;

‘**Measure**’ means the Diocesan Boards of Education Measure 1991 (as amended);

‘**Member**’ and ‘**Membership**’ refer to company membership of the **Board**;

‘**Memorandum**’ means the **Board’s** Memorandum of Association;

‘**month**’ means calendar month;

‘**nominee company**’ means a corporate body registered or having an established place of business in England and Wales which holds title to property for another;

‘**ordinary resolution**’ means a resolution agreed by a simple majority of the **Members** present and voting at a general meeting;

‘**Object**’ means the object of the **Board** as defined in **Article 1**;

‘**Order**’ means the Chester Diocesan Board of Education Order 2016 made on 7<sup>th</sup> June 2016 and coming into force on 31<sup>st</sup> August 2016 or by such other order as may be made under the **Measure** in respect of the **Diocese**;

‘**seal**’ means the common seal of the Board if it has one;

‘**Secretary**’ means the company secretary of the **Board**;

‘**special resolution**’ means a resolution passed by a majority of not less than 75% of the **Members** present and voting at a general meeting;

‘**taxable trading**’ means carrying on a trade or business in such manner or on such a scale that some or all of the profits are subject to corporation tax;

‘**Trustee**’ means a director of the **Board** and ‘**Trustees**’ means the directors;

‘**written**’ or ‘**in writing**’ refers to a legible document on paper or a document sent by **electronic means** which is capable of being printed out on paper;

‘**written resolution**’ refers to an **ordinary resolution** or a **special resolution** which is made **in writing** and in accordance with the provisions of the Companies Acts; and

**'year'** means calendar year.

- 16.3 Expressions not otherwise defined which are defined in the **Companies Act** shall have the same meaning.
- 16.4 References to an Act of Parliament are to that Act as amended or re-enacted from time to time and to any subordinate legislation made under it.