

2018 No. 1015

EDUCATION, ENGLAND

**The Diocese of York (Educational Endowments) (Kilburn
Church of England Primary School) Order 2018**

Made - - - - *18th September 2018*

Coming into force in accordance with article 1

It has been shown to the satisfaction of the Secretary of State for Education (“the Secretary of State”) that the endowment of the educational foundation known as Kilburn Church of England Primary School in the County of North Yorkshire is or has been held in connection with the provision of religious education in accordance with the tenets of the Church of England at a voluntary school, the premises of which have ceased to be used for the purposes of such a school.

The endowment is comprised in the deed of the foundation being a deed dated 12th February 1856 and made between the Archbishop of York and the Minister and Churchwardens of the Ecclesiastical Parish of Kilburn.

The assets representing the endowment consist of: the school site and buildings erected thereon, including any income derived from them before the coming into force of this Order.

Application for an Order making new provision as to the use of the endowment has been made to the Secretary of State by the York Diocesan Board of Education which body appears to the Secretary of State to be the appropriate authority of the Church of England for the purpose.

Notice of the proposed Order and of the right of persons interested to make representations on it has been given in the manner required by section 555(2) and (3) of the Education Act 1996(a).

No representations have been made on the proposed Order.

The Secretary of State, in exercise of the powers conferred by sections 554 and 556 of the Education Act 1996(b), makes the following Order:

Citation and commencement

1. This Order may be cited as the Diocese of York (Educational Endowments) (Kilburn Church of England Primary School) Order 2018 and comes into force on the day after the day it is made (“the operative date”).

(a) 1996 c. 56.

(b) Sections 554 and 556 were amended by Schedule 30 to the School Standards and Framework Act 1998 (c. 31).

Interpretation

2. In this Order —

“the deed” means the deed of the foundation being a deed dated 12th February 1856 and made between the Archbishop of York and the Minister and Churchwardens of the Ecclesiastical Parish of Kilburn;

“the Diocesan Board” means the York Diocesan Board of Finance Limited;

“the endowment” means the endowment comprised in the deed;

“the foundation” means the educational foundation known as Kilburn Church of England Primary School;

“trust assets” means the school site and buildings erected thereon, together with any income derived therefrom (whether before or after the operative date);

Division of foundation and trust assets

3.—(1) The trust assets must be divided into two separate trust funds, namely —

(a) The Kilburn Church of England Primary School Fund (“the School Fund”) comprising eleven-fourteenths of the trust assets; and

(b) The Kilburn Church of England Primary School Religious Education Fund (“the Religious Education Fund”) comprising three-fourteenths of the trust assets.

(2) The apportionment of the trust assets required by virtue of this article must be made in every case, after payment of any expenses of administration in accordance with article 5(2).

Trustee and vesting

4.—(1) The Diocesan Board is appointed to be trustee of —

(a) the foundation;

(b) the trust assets; and

(c) the School Fund established by article 3(1)(a).

(2) The Incumbent and Churchwardens for the time being of the Ecclesiastical Parish of Kilburn are hereby appointed to be the trustees of the Religious Education Fund established by article 3(1)(b).

(3) The funds belonging to or held in trust for the foundation immediately before the operative date shall be transferred to the Diocesan Board and all acts necessary for that purpose shall be done by persons holding such funds.

Administration of foundation

5.—(1) The Diocesan Board is authorised to sell the school site and buildings erected thereon and must, until sale, let or otherwise manage such property according to the general law applicable to the management of property held on trust for chargeable purposes.

(2) Following such sale and after payment of any expenses of administration, the Diocesan Board must account for that proportion of the capital and income of the trust assets of the foundation which represents the Religious Education Fund to the trustees of that fund.

(3) The trustees of the Religious Education Fund must apply the income, and may apply the capital of that fund, for educational purposes related to the Ecclesiastical Parish of Kilburn in connection with the provision of religious education in accordance with the tenets of the Church of England by means of a Sunday School or otherwise.

(4) The Diocesan Board must hold the School Fund on the uniform statutory trusts.

(5) In this article “uniform statutory trusts” means the trusts set out in the Schedule (being the uniform statutory trusts set out in Schedule 36 to the Education Act 1996(a) as they apply in relation to the School Fund).

Consolidation

6. The School Fund must be consolidated with York Diocesan Board of Education’s Uniform Statutory Trust Fund(b) and that consolidated fund must be known as the York Diocesan Board of Education’s Uniform Statutory Trust Fund.

Consultation

7. The Diocesan Board must consult the York Diocesan Board of Education with regard to the exercise of the powers and functions conferred on it by this Order.

Signed by authority of the Secretary of State

18th September 2018

Louise Whitesman
Deputy Director
Department for Education

SCHEDULE

Article 5(5)

1. In this Schedule —

“the area” means the Diocese of York;

“relevant school” means a voluntary school, a foundation school, an academy school, an alternative provision academy, a city technology college or a city college for the technology of the arts at which religious education in accordance with the tenets of the Church of England is or is to be provided;

“relevant trust assets” means the School Fund;

“trustee” means the Diocesan Board.

2. The trustee may, after payment of any expenses incurred in connection with the administration of the trust, apply the capital and income of the relevant trust assets for any of the following purposes—

- (a) in or towards the purchase of a site for, or the erection, improvement or enlargement of, the premises of any relevant school in the area;
- (b) for the maintenance of any relevant school in the area;
- (c) in or towards the purchase of a site for, or the erection, improvement or enlargement of, the premises of a teacher’s house for use in connection with any relevant school in the area; and
- (d) for the maintenance of a teacher’s house for use in connection with any relevant school in the area.

3. The trustee may also, after payment of any expenses incurred in connection with the administration of the trust, apply the income of the relevant trust assets for any of the following purposes—

(a) 1996 c. 56. Schedule 36 was amended by paragraph 10 of Schedule 9 to the Education Act 2005 (c. 15).
(b) York Diocesan Board of Education’s Uniform Statutory Trust Fund’s trustee is the Diocesan Board. The assets of the York Diocesan Board of Education’s Uniform Statutory Trust Fund are held under the uniform statutory trusts.

- (a) in or towards the provision of advice, guidance and resources (including materials) in connection with any matter related to the management of, or education provided at, any relevant school in the area;
- (b) the provision of services for the carrying out of any inspection of any relevant school in the area required by Part 1 of the Education Act 2005(a); and
- (c) to defray the cost of employing or engaging staff in connection with—
 - (i) the application of income of the relevant trust assets for either of the purposes referred to in sub-paragraphs (a) and (b) above, or
 - (ii) the application of capital or income of the relevant trust assets for any of the purposes referred to in paragraph 2 above.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order appoints the York Diocesan Board of Finance Limited as trustee of the foundation known as Kilburn Church of England Primary School and makes new provision as to the use of the endowment of that foundation. It creates a separate foundation for the purpose of providing religious education in accordance with the doctrines of the Church of England within the Ecclesiastical Parish of Kilburn.

The Order provides for the relevant trust assets to be consolidated with the fund known as the York Diocesan Board of Education's Uniform Statutory Trust Fund and held on the uniform statutory trusts as set out in the Schedule to the Order (being the uniform statutory trusts set out in Schedule 36 to the Education Act 1996 as they apply to the relevant trust assets) for the benefit of Church of England voluntary schools, foundation schools, academy schools, alternative provision academies, city technology colleges and city colleges for the technology of the arts in the Diocese of York.

(a) 2005 c. 18.