



**GUIDELINES
ON THE ROLE OF
TRUSTEES
IN
COMMUNITY SCHOOLS**

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Introduction

The Education Act 1998 sets out a framework within which the various stake-holders in the education system are expected to operate. The duties and responsibilities of patrons and management are identified in this context. In 2002 the ACCS Executive set up a Trustees: Accountability and Responsibility sub-committee to consider the responsibilities of Trustees and the interface between Trustees and Boards of Management. The deliberations of this sub-committee are published as a set of guidelines that will generate a greater awareness among Trustees and Boards of Management in Community Schools of their respective functions and responsibilities under the existing Deed of Trust and education legislation. The guidelines are presented in a format that is designed to assist Trustees and Boards of Management identify their relevant roles and responsibilities.

The terms Trustee and Patron are interchangeable in this document.

Who are the Trustees?

The Education Act 1998 states that

Where two or more persons exercise the functions of a patron they may be registered as joint patrons.

[Education Act 1998, Part II, Section 8 (5)]

In the case of Community schools the joint Trustees are the Education and Training Board, the Religious Order(s), and/or the Bishop [Deed of Trust, Community School], or Educate Together or the duly authorised nominated person(s) deemed to be acting on behalf of the Trustee.

The Education Act 1998 confirms that those who stand appointed as Trustees

shall be deemed to be the Patron for the purposes of the Act and the Minister shall enter his, her or their name, as appropriate in a register kept for that purpose by the Minister.

[Education Act 1998, Part II, Section 8 (1) (b)]

The Education Act 1998 imposes a dual obligation on the Trustees where it states:

The patron of a school shall carry out the functions and exercise the powers conferred on the patron by this Act and such other functions and powers as may be conferred on the patron by any Act of the Oireachtas or instrument made thereunder, deed, charter, articles of management or other such instrument relating to the company or operation of the school.

[Education Act 1998, Part II, Section 8(6)]

Education Act 1998

The context in which schools operate is outlined in the Introduction to the Education Act 1998.

The Education Act 1998 was enacted to make provision in the interests of the common good for the education of every person in the state, including any person with a disability or who has other special educational needs, and to provide generally for primary, postprimary, adult and continuing education and vocational education and training; to ensure that the education system is accountable to students, their parents and the state for the education provided, respects the diversity of values, beliefs, languages and traditions in Irish society and is conducted in a spirit of partnership between schools, patrons, students, parents, teachers and other school staff, the community served by the school and the state; to provide for the recognition and funding of schools and their management through Boards of Management; to provide for an inspectorate for schools; to provide for the role and responsibilities of Principals and teachers; to establish the National Council for Curriculum and Assessment and to make provision for it, and to provide for related matters.

[Education Act 1998, Introduction, page 5]

The Education Act 1998 recognises the Deed of Trust as an instrument of governance and also clarifies matters over and above the general terms of the Deed of Trust.

In the carrying out of his/her functions, the Minister shall have regard to the practices and traditions relating to the organisation of schools or groups of schools existing at the commencement of this Part and the right of schools to manage their own affairs in accordance with this Act and any charters, deeds, articles of management or other such instruments relating to their establishment or operation.

[Education Act 1998, Part I, Section 7 (4)(a)(iv)]

Sections 11(1) and 11(2) of the Act regarding withdrawal of recognition of a school by the Minister should be read in conjunction with the terms of the Model Lease for a Community School.

Deed of Trust in a Community School

The Deed of Trust and schedules therein set out certain official responsibilities for Trustees.

The Trustees hereby covenant with the Minister that they will from time to time and at all times hereafter duly, diligently and faithfully to execute and perform all the Trusts herein referred to and all the terms and conditions mentioned and contained herein and in the Scheme. The scheme is defined as the provisions set out in the first and second schedules, namely, the Instrument and Articles of Management. These provisions underpin Trustees' responsibilities and rights relative to a particular Community School under the terms of the Deed.

[Article 6, Model Lease, Deed of Trust for Community Schools]

Having established the legal context within which Trustees exercise their role this document now addresses significant practical requirements of Trustees and Boards of Management. The guidelines are not intended to be prescriptive but to provide an ACCS perspective on the action required to enable both bodies to fulfil their mutual responsibilities.

The Board of Management

The over-arching duty of a Board of Management emanates from the Education Act 1998 where it states that

it shall be the duty of a Board to manage the school on behalf of the patron for the benefit of the students and their parents.

[Education Act 1998, Part IV, Section 15(1)]

The Education Act stipulates that it

shall be the duty of a patron, for the purposes of ensuring that a recognised school is managed in the spirit of partnership, to appoint where practicable a Board of Management the composition of which shall have been agreed between patrons of schools, national associations of parents, recognised school management organisations, recognised trade unions and staff associations representing teachers and the Minister.

[Education Act 1998, Part IV, Section 14(1)]

The Act also states that when making appointments to a Board established in accordance with subsection (1)

the patron shall comply with directions given by the Minister in respect of the appropriate gender balance and the Minister, before giving any such directions, shall consult with patrons, national associations of parents, recognised school management organisations and recognised trade unions and staff associations representing teachers.

[Education Act 1998, Part IV, Section 14 (5)]

While the Deed of Trust is silent on the appointing authority, apart from stipulating that the Trustees call the first meeting of the Board of Management, the responsibility for appointing each successive Board of Management now rests with the Trustees of the Community School in common with the Patrons of all other schools.

Implications: The Trustees have the responsibility and the authority to appoint the Board of Management under legislation. The Trustees have ultimate responsibility for ensuring the nomination of their own Trustee nominees, while facilitating the election of parent and teacher nominees to the Board of Management, as appropriate. Nominating bodies are obliged to communicate the names of their new nominees to the Trustees for formal appointment to the Boards of Management.

Any member of the Board may be removed from office by his/her nominator under the terms of article 6 (b) of the Instrument of Management in the Deed of Trust.

The Education Act outlines procedures necessary for the dissolution of a Board and/or the removal of a Board member from the Board of Management.
[Education Act 1998, Part IV, Section 16 (5-7)]

In the same section the Act allows the patron to appoint a person or persons to manage the school following the dissolution of the Board of Management. The patron is expected to appoint a new Board of Management not later than six months following the dissolution unless a longer period has been approved by the Minister.

Implication: Trustees must operate strictly within the timescale as defined above.

In relation to the school property the Act states that-

For the avoidance of doubt, nothing in this Act shall confer or be deemed to confer on the Board any right over or interest in the land and buildings of the school for which the Board is responsible.
[Education Act 1998, Part IV, Section 15(3)]

Implication: The Board of Management does not acquire any right or interest in the school land or buildings even though the Board is responsible for them. This is linked to sections 2 and 14 of the Model Lease, Deed of Trust for a Community School. Any question of transferring a part of the school site or building to any other party is outside the remit of the Board of Management and must be referred to the Patron who will communicate on the matter with the Minister and the DES as the landowner.

Characteristic Spirit of a Community School

In describing the function of a school the Education Act emphasises the promotion of the moral, spiritual, social and personal development of students and the provision of health education for them, in consultation with their parents, having regard to the characteristic spirit of the school. Likewise, in describing how a Board of Management shall perform the functions conferred on it, the Act states that in carrying out its functions the Board shall:-

uphold, and be accountable to the patron for so upholding the characteristic spirit of the school as determined by the cultural, educational, moral, religious, social, linguistic and spiritual values and traditions which inform and are characteristic of the objectives and conduct of the school, and at all times act in accordance with any Act of the Oireachtas or instrument made there under deed, charter, articles of management or other such instrument relating to the establishment or operation of the school,

[Education Act 1998, Part IV, Section 15(2) (b)]

Implication: The Trustees of any particular Community School must agree the characteristic spirit of the school. In so agreeing, Trustees need to take cognisance of the school's inherited tradition and values and the founding intention of the school.

Policies and Communication - Role of Trustees and Board of Management

To assist Trustees and Boards of Management in meeting their mutual obligations under the relevant sections of the Education Act and the Deed of Trust, effective systems of communication need to be established. The Education Act is unequivocal in stating that it is one of the functions of the Board to *consult with and keep the patron informed of decisions and proposals of the Board.*

[Education Act 1998, Part IV, Section 15(2) (c)]

Implication: To enable the joint Trustees to exercise their responsibilities vis-a vis a particular Community School the Trustees, acting jointly, should nominate a person who will act as a Liaison Trustee in all communications between the Board of Management and the Trustees.

The Education Act emphasises that the school plan shall be prepared in consultation with Trustees and others.

The school plan shall be prepared in accordance with such directions, including directions relating to consultation with the parents, the patron, staff and students of the school, as may be given from time to time by the Minister in relation to school plans.

[Education Act 1998, Part IV, Section 21(3)]

Likewise, Section 21(4), Part IV, Education Act 1998, requires the Board of Management to send a copy of the plan to the Patron.

There are a number of significant references throughout the Education Act which have implications for Trustees regarding policies adopted by the Board of Management.

In this context the policy of a school concerning admission and participation is particularly important. The Board

shall publish, in such a manner as the Board with the agreement of the patron considers appropriate, the policy of the school concerning admission to and participation in the school, including the policy of the school relating to the expulsion and suspension of students and admission to and participation by students with disabilities or who have other special educational needs, and ensure that as regards that policy principles of equality and the right of parents to send their children to a school of the parents choice are respected and such direction as may be made from time to time by the Minister, having regard to the characteristic spirit of the school and the constitutional rights of all persons concerned, are complied with,

[Education Act 1998, Part IV, Section 15 (2) (d)]

In describing the functions of a school the Act emphasises the provision of education appropriate to the abilities and needs of the students. A school is required to use its available resources to:-

establish and maintain an admissions policy which provides for maximum accessibility to the school

[Education Act 1998, Part II, Section 9 (m)]

In preparing a special needs policy a school is expected to–

ensure that the educational needs of all students, including those with a disability or other special educational needs are identified and provided for.

[Education Act 1998, Part II, Section 9 (a)]

While the above section requires the school to identify and provide for special educational needs the obligation to make resources available for this provision rests with the Minister. The Act states that it shall be the function of the Minister –

to ensure, subject to the provision of this Act, that there is made available to each person resident in the State, including a person with a disability or who has other special educational needs, support services and a level and quality of education appropriate to meeting the needs and abilities of that person.

[Education Act 1998, Part I, Section 7(1) (a)]

It is clear from the above that there are implications for Boards of Management and Trustees in certain key areas of policy development.

The requirement of section 15 (2) (c), Part IV of the Education Act that Boards of Management consult with and keep the patron informed of decisions of the Board allows the patron to seek a report from the Board of Management in relation to its decisions. Part IV, section 19 allows the patron to seek a report on the Board of Management in the event of concern about the discharging of the duties of the Board.

Implication: To enable Trustees fulfil their responsibilities under legislation, Trustees shall receive from the Board of Management of the school all relevant policies, information and documentation including:

- ***Any major building or refurbishment proposals envisaged at the school.***
- ***Admissions Policy.***
- ***Code of Discipline/Behaviour.***
- ***School Plan, including work in progress, etc.***

Personnel Matters

The role of the Trustees in the appointment of the members of the Selection Committee is outlined in the 2nd Schedule, Articles of Management, article 7 A (c) (ii), Deed of Trust, which refers to a Selection Committee of five persons constituted from time to time and comprising two representatives of the religious authorities involved in the operation of the school, a representative of the Education and Training Board, the Chief Executive Officer of the Education and Training Board (ETB) or his/her nominee and an Inspector of the DES nominated by the Minister.

Article 7 A (c) (vi) of the Articles of Management, Deed of Trust, refers to the fact that in the event of the Minister introducing a scheme for the re-deployment of teachers who may become redundant in a Comprehensive or Community school, such a decision would require the agreement of the Trustees.

Article 7 B of the Articles of Management, Deed of Trust, gives a guarantee to the Religious Trustees of reserved places for qualified teachers who are members of their religious congregation(s).

Implication: It is important for Trustees to ensure that their nominees on Selection Committees have appropriate skills and experience for their role on Selection Committees.

Trustees' Interests at National Level

The Minister for Education is required by the Education Act to consult with various stakeholders, including patrons, in the education system. In Section 7 (4) (b) of the Act it is stated that the Minister:-

shall make all reasonable efforts to consult with patrons, national associations of parents, parents' associations in schools, recognised school management organisations, recognised trade unions and staff associations representing teachers and such other persons who have a special interest in or knowledge of matters relating to education, including persons or groups of persons who have a special interest in, or experience of, the education of students with special educational needs, as the Minister considers appropriate.

[Education Act 1998, Part I, Section 7(4) (b)]

The process of consulting with patrons, among others, is referred to in other sections of the Act, including:-

Section 6(g)	Special needs.
Section 23(1)	The procedures for appointment of Principals.
Section 25	The length of the school year, week, day.
Section 30 (1)	Curriculum.
Section 32 (1)	Educational disadvantage.
Section 33	Regulations for the purpose of giving effect to the Act.

Consultation with Trustees is also referred to in the Section of the Act relating to the Inspectorate:-

An Inspector, including the Chief Inspector, shall carry out his or her functions in accordance with such procedures as may be determined by the Minister from time to time, following consultation with patrons, school management organisations, recognised trade unions, and staff associations representing teachers and such other persons as the Minister considers appropriate, and such directions as may be given by the Minister from time to time.

[Education Act 1998, Part III, Section 13(8)]

Part III, Section 13 (3)(a)(i) of the Education Act refers to the function of the Inspector to *visit recognised schools and centres for education on the initiative of the Inspectorate, and, following consultation with the Board, patrons, parents of students and teachers, as appropriate,*

There is no structure in place whereby Trustees can be consulted on a national level. Since the Education Act clearly states that the Trustees are to be consulted on a wide range of issues it is recommended that a National Trustee Forum be established to enable the views of Trustees in Community Schools to be articulated and communicated to the DES and other agencies. Details regarding the functions, composition and representative make-up of the National Trustee Forum are to be finalised following

consultation with the appropriate nominating Trustee agencies. ACCS may have a secretarial role in convening such a National Trustee Forum.

The DES must make available to the National Trustee Forum a copy of its register of Trustees database to assist the Forum in executing its responsibilities to its membership.

Implication: ATCS, Conference of Bishops (Catholic), The Church of Ireland Education Board and the ETBI must seek the establishment of such a National Trustee Forum as a matter of priority. This forum will provide a mechanism for the wide-ranging consultation referred to above. The concept of such a Forum presents an opportunity for Trustees of Community Schools to become a recognised representative body at National level.

Checklist for Trustees

Trustees: Action required.

The following list is provided as a summary of the tasks required of Trustees in discharging their duties. It is understood that Trustees will consult with the Board of Management and establish guidelines which will assist them to carry out their official responsibilities to the school.

1. A significant role for the Trustees is identified which necessitates the establishment of a National Trustee Forum which will have as some of its functions to co-ordinate the views of the Trustee interests and communicate with the DES. With joint and multi-trusteeships and the necessity for exchanging information and the implications of same, the need for a National Trustee Forum is clear.
2. Joint Trustees have a shared responsibility in a number of areas. ACCS recommends that Joint Trustees for a particular school should agree a Liaison Trustee nominee who will liaise with the Board of Management and others, on their behalf during the course of the lifetime of the Board of Management.
3. The nominating Trustee organisation should make provision for the adequate preparation and training of their nominees to the Board of Management and help to make them aware of their responsibilities to their nominating authority. Trustee organisations may seek feedback and accountability from their Board nominees on the work of the school. Nominees to the Board of Management must be encouraged by their nominating authority to participate in any organised in-service training programmes provided by ACCS or other appropriate agencies as deemed necessary and appropriate.
4. Trustee organisations must ensure that their nominees to the school Selection Committee have the appropriate experience required for the responsibilities involved in their important work on the Selection Committee.
5. It is essential that Trustee organisations involved in a Community School ensure that any transfer of ownership and title to the school site be properly registered and compliant with relevant legislative requirements.

It is also necessary for Trustees to be available for consultation with the Board of Management on any change of use of the school and on proposed alterations to the buildings or school site. DES sanction would also be required for any change of use or alterations to existing school accommodation/land.

6. Trustees should communicate with their Trustee nominees to ensure their nominees in a Community School are aware of their responsibilities.

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7. Article 7 of the Model lease must be adhered to by the Trustee organisations where it is impracticable for a Community School to continue to function.
 8. Religious Trustee Congregations and Boards of Management should collaborate each year at the appropriate time on whether the Congregation will be taking up the option of reserved teaching places in the school for the following school academic year.
 9. The Liaison Trustee, acting on behalf of all the Trustee interests, having secured all nominees to the Board of Management, duly appoints the Board of Management to assume its responsibilities for its term of office. This may be executed by the issuing of a formal letter appointing the nominees to the Board of Management.
 10. Trustees should keep up to date with developments in education and review the implications and responsibilities for them as encompassed by the Deed of Trust and Education Legislation.
 11. The Board of Management is accountable to the Trustees for upholding the characteristic spirit of the school. The Board of Management must receive from the Trustees a statement of the founding purpose of the school and their educational philosophy. These documents will underpin the future development of the school.
 12. A Trustee(s) wishing to withdraw from its Community School Trusteeship should comply with the relevant section of the Deed of Trust and communicate their intent to (a) the other joint Trustee(s) (b) the DES (c) the Board of Management and (d) the National Trustee Forum.
 13. The assistance of the Planning Unit within the DES should be utilised by the Trustees for the setting up of the initial meeting of the Board of Management, especially where it is an initial meeting of the Board of a school which includes newly amalgamated schools. The Trustees facilitate the appointment of the nominees to the Board of Management thereafter, following the completion of the term of office of a Board of Management.

Checklist of Responsibilities of the Board of Management to the Trustees:

- (a) To be accountable to the Trustees for upholding the 'characteristic spirit of the school'.
- (b) To keep the Trustee representatives/organisations informed on any development(s) arising that impact on the management and life of the school.
- (c) To use the official reporting mechanism for all mandatory communication with the Trustees arising out of school planning, Board of Management decisions, relevant Trustee functions etc.
- (d) To ensure that the Board of Management communicates at regular intervals with its Trustees on issues of mutual concern. Trustees should receive a copy of the minutes of the Board of Management meeting after these have been formally adopted by the Board of Management.
- (e) To seek the approval of the Trustees for any proposed capital acquisition, change of use of the school or disposal of assets recommended by the Board.
- (f) To inform the Trustees when the life span of a particular Board of Management is close to termination (3 years) and to seek nominees to a new Board of Management.
- (g) To communicate with Trustees as appropriate on matters relating to reserved posts.
- (h) To ensure that Trustee nominees on their appointment to the Board of Management receive copies of (i) Deed of Trust/Deed of Indenture/Articles & Instruments of Management pertaining to the particular school (Community/Comprehensive) (ii) TAGAIRT (published by ACCS) (iii) Code and Password to access the ACCS website (iv) Agreements with staff Trade Unions (v) Education Act 1998 and such other legislation/documents that may be relevant.
- (i) To advise Trustee nominee(s) on any in-service provision that may be of interest and value to Trustee interests.
- (j) To formally adopt all school policies in accordance with legislative requirements.

Membership of the Trustees: Accountability and Responsibility Sub-committee

Chairperson: An tUas. Diarmuid P. Ó Murchú,
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DES Places Educational Association,
Holy Ghost Fathers.

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