

**2013 No. 920**

**EDUCATION, ENGLAND**

**The Diocese of York (Educational Endowments) (Ellerton  
Priory Church of England School) Order 2013**

*Made* - - - - *18th April 2013*

*Coming into force* - - *9th May 2013*

WHEREAS—

(1) the endowment of the educational foundation known as Ellerton Priory Church of England School in the county of Yorkshire (“the foundation”), comprised in a Deed dated 1 February 1872 and made between (1) Margaret Hall and (2) the Minister and Churchwardens of the Parish of Ellerton, has been shown to the satisfaction of the Secretary of State for Education (“the Secretary of State”) to be or to have 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;

(2) the assets representing the said endowment of the foundation (“the trust assets”) include the school site and buildings erected thereon, including any income derived therefrom whether before or after the coming into force of this Order;

(3) application for an order making new provision as to the use of the trust assets has been made to the Secretary of State by the York Diocesan Board of Education, which body appears to him to be the appropriate authority of the Church of England for the purpose;

(4) 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);

(5) no representations have been made on the proposed order.

NOW, THEREFORE, THE SECRETARY OF STATE FOR EDUCATION, in exercise of the powers conferred by sections 554 and 556 of the Education Act 1996(b), hereby makes the following Order—

**Citation and commencement**

1. This Order may be cited as the Diocese of York (Educational Endowments) (Ellerton Priory Church of England School) Order 2013 and shall come into force on 9th May 2013 (“the operative date”).

**Interpretation**

2. In this Order—

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(a) 1996 c.56.

(b) Section 554 is amended by paragraph 168 of Schedule 30 to the School Standards and Framework Act 1998 (c.31) and section 556 is amended by paragraph 169 of that Schedule.

“the Diocesan Board” means the York Diocesan Board of Education; and

“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 Ellerton Priory Church of England School Fund comprising eleven-fourteenths of the trust assets; and
  - (b) the Ellerton Priory Church of England Religious Education Fund comprising three-fourteenths of the trust assets.
- (2) The apportionment of the trust assets required by virtue of this article shall be made—
- (a) in the case of the property mentioned in article 5(1), after the sale of the property under that article; and
  - (b) 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 the trustee of—
- (a) the foundation;
  - (b) the trust assets; and
  - (c) the Ellerton Priory Church of England School Fund established by article 3(1)(a).
- (2) The Vicar and Churchwardens for the time being of the Parish of Ellerton and Aughton are hereby appointed to be the trustees of the Ellerton Priory Church of England Religious Education Fund established by article 3(1)(b) provided that—
- (a) during any period when there is no Vicar as aforesaid or the Bishop declares a period of suspension in respect of the Benefice the Priest for the time being in charge of the Benefice shall by virtue of his office be a trustee of the said fund;
  - (b) if at any time the Church Commissioners make a Pastoral Scheme dissolving the present Benefice the incumbent of a new Benefice which incorporates the whole or a major part of the present Benefice shall by virtue of his office be a trustee of the said fund; and
  - (c) if at any time the Church Commissioners make a pastoral scheme establishing a team ministry for an area which includes the present benefice the rector for the time being of that team ministry shall by virtue of his office be a trustee of the said fund, unless by that scheme or by virtue of a bishop’s licence a special cure of souls is assigned to a vicar in respect of an area which includes the whole or a major part of the present benefice in which case the vicar shall by virtue of his office be a trustee of the said fund.
- (3) The land and hereditaments comprised in the Deed which belong to or are held in trust for the foundation immediately before the operative date are hereby vested in the Diocesan Board.

### **Administration of foundation**

- 5.—(1) The Diocesan Board is authorised to sell the school site and buildings erected thereon of the foundation known as Ellerton Priory Church of England School and shall, until sale, let or otherwise manage such property according to the general law applicable to the management of property held on trust for charitable purposes.
- (2) Following such sale and after payment of any expenses of administration, the Diocesan Board shall account for that proportion of the capital and income of the trust assets of the foundation which represent respectively the Ellerton Priory Church of England School Religious Education Fund, to the trustees of the fund.

(3) The trustees of the Ellerton Priory Church of England Religious Education Fund shall apply the income, and may apply the capital of that fund, for educational purposes related to the Parish of Ellerton and Aughton 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 shall hold the Ellerton Priory Church of England School Fund, on the uniform statutory trusts.

(5) In this article “uniform statutory trusts” means the trusts set out in the Schedule to this Order (being the uniform statutory trusts set out in Schedule 36 to the Education Act 1996 as they apply in relation to the Ellerton Priory Church of England School Fund relevant trust assets).

### **Consolidation**

6. The Ellerton Priory Church of England School Fund shall be consolidated with the York Diocesan Board of Education’s Uniform Statutory Trust Fund and that consolidated fund shall be known as the York Diocesan Board of Education’s Uniform Statutory Trust Fund.

Signed by the authority of the Secretary of State

18th April 2013

*Julia Gault*  
Deputy Director  
Department for Education

## **SCHEDULE**

Article 5(5)

### **The Uniform Statutory Trusts**

#### **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 Ellerton Priory Church of England School Fund; and

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

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) 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 I 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 Education as trustee of the foundation known as Ellerton Priory Church of England School and makes new provision as to the use of the endowment of that foundation. It authorises the sale of specified land belonging to the foundation. It also creates a separate foundation for the purpose of providing religious education in accordance with the doctrines of the Church of England within the Parish of Ellerton and Aughton.

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 Ellerton.

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(a) 2005 c.18.