

**2018 No. 1014**

**EDUCATION, ENGLAND**

**The Diocese of Lincoln (Educational Endowments) (Aby  
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 Aby Church of England Primary School in the county of Lincolnshire 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 a deed dated 5th June 1852 and made between (1) The Right Honourable Peter Robert Drummond Lord Willoughby de Eresby, Sir Charles Morgan Robinson Morgan, Baronet Richard Twining, Mr Ralph Price, Mr Henry Kemble, and Mr William Samuel Jones, and (2) the Minister and Churchwardens of Belleau with Aby.

The assets representing the endowment consist of: (a) £105,237.33 being the net proceeds of sale of the former school premises held on deposit at CCLA Investment Management Limited and (b) any income derived from those assets 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 Lincoln Diocesan Trust and Board of Finance Limited, 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.

A trust under section 1 of the Reverter of Sites Act 1987(b) has arisen in relation to the assets of the endowment and the Secretary of State is satisfied that all reasonably practicable steps to trace any person who is or may become entitled as a beneficiary under the trust have been taken and consent to the making of an order under section 554 of the Education Act 1996 has been given by every person whose claim to be such a person is outstanding (within the meaning of the said Act of 1987) or which has at any time been accepted as valid by the trustees or by persons whose

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(a) 1996 c.56.

(b) 1987 c.15. Section 1 was amended by Schedule 2 to the Trusts of Land and Appointment of Trustees Act 1996 (c.47).

acceptance binds or will bind the trustees, or which has been upheld in proceedings that have been concluded (within the meaning of the said Act of 1987).

Accordingly, the Secretary of State makes the following order in exercise of the powers conferred by sections 554 and 556 of the Education Act 1996(a) and section 5 of the Reverter of Sites Act 1987(b).

### **Citation and commencement**

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

### **Interpretation**

2. In this Order—

“the deed” means the deed of the foundation being a deed dated 5th June 1852 and made between (1) The Right Honourable Peter Robert Drummond Lord Willoughby de Eresby and Sir Charles Morgan Robinson Morgan, Baronet Richard Twining, Mr Ralph Price, Mr Henry Kemble, and Mr William Samuel Jones, and (2) the Minister and Churchwardens of Belleau with Aby;

“the Diocesan Board” means the Lincoln Diocesan Trust and Board of Finance Limited;

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

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

“trust assets” means the sum of £105,237.33 held on deposit account at CCLA Investment Management Limited representing the proceeds of sale of the premises of Aby Church of England Primary School, together with any income derived from those assets (whether before or after the operative date).

### **Extinguishment of rights under the Reverter of Sites Act trust**

3. The rights of any person who is or may become entitled under the trust which has arisen by virtue of section 1 of the Reverter of Sites Act 1987 in respect of the trust assets are extinguished.

### **Division of foundation and trust assets**

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

- (a) the Aby Church of England Primary School School Fund (“the School Fund”) comprising eleven-fourteenths of the trust assets; and
- (b) the Aby 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(1).

### **Trustee and vesting**

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

- (a) the foundation;

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

(b) Section 5(1) was amended by Schedule 37 to the Education Act 1996 (c.56).

- (b) the trust assets; and
- (c) the School Fund established by article 4(1)(a).

(2) The Vicar and Churchwardens for the time being of the Parish of St. John’s Belleau, and St. Andrew’s South Thoresby (both in the Parish of Wold-Marsh), are hereby appointed to be the trustees of the Religious Education Fund established by article 4(1)(b).

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

### **Administration of foundation**

6.—(1) 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.

(2) 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 Parish of Wold-Marsh 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.

(3) The Diocesan Board must hold the School Fund on the terms set out in the Schedule (being the uniform statutory trusts set out in Schedule 36 to the Education Act 1996(a)).

### **Consolidation**

7. The School Fund must be consolidated with the School Buildings Section 86/2 accumulated funds(b) and that consolidated fund must be known as the School Buildings Section 86/2 accumulated funds.

Signed by the authority of the Secretary of State

18th September 2018

*Louise Whitesman*  
Deputy Director  
Department for Education

## **SCHEDULE**

Article 6(3)

### **The Uniform Statutory Trusts**

#### **1. In this Schedule—**

“the area” means the Diocese of Lincoln;

“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; and

“trustee” means the Diocesan Board.

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(a) Schedule 36 was amended by paragraph 10 of schedule 9 to the Education Act 2005 (c.18).

(b) The trustee of the School Buildings Section 86/2 accumulated funds is the Diocesan Board. The assets of the School Buildings Section 86/2 accumulated funds are held on the uniform statutory trusts.

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 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 Lincoln Diocesan Trust and Board of Finance Limited as trustee of the foundation known as Aby 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 Parish of Wold-Marsh.

The Order provides for the relevant trust assets to be consolidated with the fund known as the School Buildings Section 86/2 accumulated funds 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) 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 Lincoln.

The Order extinguishes the rights of any beneficiary under the trust which has arisen under section 1 of the Reverter of Sites Act 1987.

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(a) 2005 c.18.