A GUIDE TO

PATRONAGE AND TRUSTEESHIP

OF

CATHOLIC SCHOOLS

IN

IRELAND

A Guide to Patronage and Trusteeship of Catholic Schools

in Ireland

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Foreword

By and large up to the 1970's schools in the Republic of Ireland at both primary and secondary level were run and managed on a day to day basis by the school principals. There were no Boards of Management, no vice-principals, no post of responsibility, no guidance counsellors, no special assistants, no ancillary staff to help with administration, no parents' councils. With restructuring of the Irish economy under Sean Lemass, the contribution of the education system to the economic wellbeing of the nation came under scrutiny. In 1965, a report entitled "Investment in Education" was commissioned by the government and written by Professor Patrick Lynch. This report fuelled the movement for reform of the education system so that it would serve the needs of the economy more effectively. Education for commercialisation might have been the motto of the author. In September 1966, Minister Donagh O'Malley announced that from 1967 onwards, second-level education in Ireland would be free for all who wished to avail of it. Almost overnight, the structures of the education system which had been in hibernation for most of the previous century began to buckle under the weight if change.

In 1975 Boards of Management were introduced at primary level, and their introduction inevitably led to the designation of roles within the system, and for the first time terms like "Patron", "Trustee" became current in educational discourse. In the1980's, Boards of Management were introduced in voluntary secondary schools coinciding with the introduction of lay principals in some of these schools. At primary level, lay principles began to be appointed in convent/monastery schools, and the numbers of teaching religious at both primary and post-primary level fell rapidly. The momentum for change was further intensified by the passing of the Education Act in 1998. This was the first comprehensive education act to reach the statute books in the history of the State, the 1930 Vocational Education Act notwithstanding. Following on from this, even more fundamental changes were being contemplated within the Catholic School tradition. Procedures and strategies were set in train to establish Lay Trust Boards which would relieve many religious congregations of their trustee role in the provision of education at both primary and secondary level. In the light of the above changes, it would be true to say that over the last three decades the landscape of Irish education has changed utterly.

All of these changes and, in particular, the speed at which they swept through the system inevitably led to a certain measure of confusion and uncertainty. Words like 'ethos' and 'characteristic spirit' began to colour public debate, and were often bandied about without any great clarity as to what these terms might mean in the context of the day to day running of a school. For the first time, those involved in education and those interested in its evolution and development began to ask important and fundamental questions such as: Who can be a Patron of a school? What is the role of a Patron? What are the responsibilities of the Patron? Who are the Trustees? What is the role of a Trustee? What are the responsibilities of Trustees? What is the difference between a Patron and a Trustee? What is the ethos of a school? Who is responsible for it? What is the nature of Catholic education? What added value does it bring to the education process? What is the role of the parent in education? How are parents' rights being accommodated within our education system? How are pupils' rights being accommodated within our education system? In more recent times, other questions have emerged such as: What is denominational education? What is non-denominational education? What is multi-denominational education? Who decides this issue in the establishment of a new school?

Many of the above issues have entered the arena of public discussion as a result of the recent initiatives taken by the Minister for Education and Skills to promote pluralism and diversity in the provision at both primary and post-primary levels In the Republic. This stated aim of the Minster has long-term consequence for Patrons and Trustees of Catholic Schools in particular. From the Catholic perspective, it calls for greater clarity and understanding of the nature of Catholic education, and what is fundamental to its on-going vitality and wellbeing. It is essential that those who have responsibility

for patronage and trusteeship of Catholic schools, and, indeed, those involved in day to day management of Catholic schools should understand the nature of the undertaking to which they are committed – its fundamental purpose, its value system, its faith-based foundations, its holistic understanding of education, its emphasis on the spiritual as well as the material dimensions of life.

It was this awareness of the rapid nature of change in Irish Education, and the consequences of this change for Catholic Education in particular, that prompted the Board of ATCS to commission the writing of a Trustee Handbook. Given the complex nature of trusteeship in Catholic education, and given the changing nature of the circumstances in which trusteeship must be exercised, it is absolutely essential that trustees have available to them a scholarly, comprehensive, well-written handbook to guide them on their journey. I believe that the handbook written by Michael Madigan can be relied upon for coherence, accuracy and completeness. It will be an essential reference book not only for trustees, but for all those involved in Catholic school administration at all levels.

Anthony Mark McDonnell cfc
13 December 2011.

Abbreviations

AMCSS	Association of Management of Catholic Secondary Schools
ASTI	Association of Secondary Teachers, Ireland
ATCS	Association of Trustees of Catholic Schools
BOM	Board of Management
CCE	Congregation for Catholic Education
CCSS	Conference of Convent Secondary Schools
CES	Catholic Education Service
CEIST	Catholic Education An Irish Schools Trust
CHA	Catholic Headmasters Association
CMCSS	Council of Management of Catholic Secondary Schools
CMRS	Conference of Major Religious Superiors (Forerunner to CORI)
CORI	Conference of Religious of Ireland
CPSMA	Catholic Primary Schools Management Association
CSP	Catholic Schools Partnership
DEA	Des Places Education Association
DES	Department of Education and Skills
ERST	Edmund Rice Schools Trust
FLCS	Federation of Lay Catholic Schools
FSSU	Financial Support Services Unit (JMB)
ISA	Irish Schoolmasters Association
JMB	Joint Managerial Body for Secondary Schools
NAPD	National Association of Principals & Deputy Principals
NEWB	National Education Welfare Board
NPS	National Procurement Service
PBST	Presentation Brothers Schools Trust
PJP	Public Juridic Person
SEC	Secondary Education Committee
TBA	Teaching Brothers Association
VEC	Vocational Educational Committee
WSE-MLL	Whole School Evaluation-Management, Leadership and Learning

Introductory Summary

This guide book has been commissioned by the Association of Trustees of Catholic Schools (ATCS). The ATCS is the umbrella body for patrons and trustees of Catholic primary and second level schools. Although the book is intended primarily to provide context and guidelines for everyone involved in the patronage/trusteeship of Catholic schools, it may also be a useful resource for chairpersons, members of Boards of Management and Principals. The ATCS is represented on the Council of the Catholic Schools Partnership (CSP) along with representatives from the Irish Bishops' Conference, the Conference of Religious of Ireland (CORI), the Catholic Primary Schools Management Association (CPSMA) and the Association of Management of Catholic Secondary Schools (AMCSS). These bodies contribute in different ways to **promoting and supporting a Christian vision of education in the Catholic tradition**. Catholic patrons and trustees have a particular responsibility in ensuring and safeguarding the religious ideals and Christian values of this tradition by working in co-operation with Catholic parents and all of the education partners.

The sequence of the chapters suggests an arrangement of the book in two parts. In **part one**, aspects of Church teaching on the Catholic school are explored and the growth and development of the Catholic school sector in Ireland, since state aid began to be provided, is outlined. The many functions of patrons and trustees and the legal framework within which they operate are the subject matter for **part two**.

As can be seen in **Chapter 1**, the primacy of parents' rights in the education of their children is fully recognised not only in **Bunreacht na hÉireann** but also by the **Holy See** and in pastoral letters issued by the **Irish Episcopal Conference.** The Catholic Church accepts that there should be **choice and diversity** in the education system and where parents desire schools under different patronage they should be facilitated, where possible, in accessing them. In their contributions to the **National Forum on Patronage and Pluralism in the Primary Sector**, the bodies representing the Catholic education sector re-iterated the Church's position in this regard.

 However, where a significant number of parents wish to send their children to Catholic schools, the **Church regards it as part of its mission to assist these parents in passing on to their children the values, culture, traditions and meaning of their faith**. At a time and in a society where an endless array of materialistic values compete for the attention of young people, the Catholic school seeks to promote and reinforce a sense of the spiritual dimension of life through religious education and faith formation in a school climate inspired by Gospel values. Being involved as trustees or administrators of Catholic schools is, therefore, a form of Christian service or ministry shared in conjunction with parents and all of the education partners.

 Participation in this ministry entails a good understanding of the **nature of the Catholic school.** Since the Vatican II document on Christian education, **Gravissimum Educationis,** there have been several other documents from the Sacred Congregation of Catholic Education (CCE). Drawing from these documents, **Chapter 1** highlights the central aspects of Church teaching on the Catholic school in order to provide all involved in patronage and trusteeship with **an overview of what they hold in trust for this and future generations**. To achieve this end reference is made not only to documents and encyclicals that contain official Church

teaching but also to interpretations of this teaching by various commentators, including the Irish Episcopal Conference through pastoral letters.

An essential aspect of Church teaching on the Catholic school is the **integration of faith and culture**. The culture in which a school finds itself is a very complex matter as culture is a dynamic melting pot of attitudes, values and practices some of which are relatively permanent and others subject to rapid change. When referring to the Irish context, one is struck by the high esteem in which education and educators have been held throughout our recorded history. It is truly remarkable that at the beginning of the nineteenth century over 9,000 hedge schools existed not only without state aid but in spite of the active opposition of the state. The state eventually became involved in providing for **elementary or primary education** in 1831 but the support was coming from a source that shared neither the religious beliefs nor the culture of the great majority of the Irish people. **In Chapter 2, the many challenges of the Catholic Church in creating a school system which facilitated the integration of faith and culture are outlined.** While the primary school system was de facto denominational prior to the foundation of the state, the denominational nature of the system remained unrecognised in official publications of the Irish state until 1965.

Although the term patron existed from the inception of the national school system, it was not until1962 that *patronage* began to acquire the more specific connotation it has today. The bishop, or local ordinary, was now to be recognised as patron of all Catholic primary schools in his diocese, apart from a number of convent/monastery schools. In 1975 the bishop's role as patron was extended to all Catholic primary schools in his diocese. In the **Education Act 1998**, the **meaning of patronage is extended to include ownership and trusteeship of all state recognised primary and second level schools**. Along with outlining the evolution of the term 'patron', the issue of future patronage of primary schools is also discussed in **Chapter 2**. Notwithstanding the Church's steadfast efforts to secure a satisfactory system of primary education for Catholics, the contributions from the Catholic sector at the **Forum on Patronage and Pluralism in the Primary Sector** reflect a willingness to cede patronage of schools in areas where new realities of pluralism and diversity in Irish society warrant this.

 The **CPSMA** was among the contributors from the Catholic sector at the **Forum**. Tracing its origins back to 1902, the CPSMA comprises representatives of patrons and Boards of Management. It provides a tremendous **support service for the Catholic primary school sector** through its structures at deanery, diocesan, provincial and national levels, and particularly through the CPSMA secretariat based in St. Patrick's College, Maynooth.

 State support for **voluntary secondary education** did not give rise to the sort of controversy that surrounded primary or third level education. While the state prescribed the curriculum for the 'payment by results' system of funding, it did not interfere in the manner in which religion was taught or integrated into the life of the school. Nonetheless, the owners and managers formed organizations to protect their interests soon after the 1878 Intermediate Education Act. As discussed in **Chapter 3**, there was **no clear delineation between management and trustee matters in second level education until the 1960s**. Various issues arose at that time which gave rise to the CMRS (forerunner to CORI) and bishops forming a Joint Education Commission to deal with major policy matters, while various managerial groups came together to form a single managerial body – AMCSS/CMCSS. This body which includes representatives from the bishops and CORI Education Commissions, at national level, was re-organised on a regional basis in 1987 and, through the **Secretariat of Secondary Schools,** continues to provide vital **support for voluntary secondary schools.**

Major changes have taken place in the provision of second level education since the 1970s and while, in Canon Law terms, the number of Catholic second level schools has decreased there is substantial Catholic involvement in joint trusteeship of Community schools. Religious congregations and, in some instances, new Trust Companies that have assumed trusteeship of voluntary secondary schools continue to have a significant input into ethos, religious education and chaplaincy services in these schools. The bishops for their part have retained links with the VEC sector through support for religious education and chaplaincy services in Community colleges. In **Chapter 3**, the decision by several religious congregations to adopt **new forms of trusteeship** receives some initial treatment but these new forms of trusteeship are discussed in greater detail in **Chapter 8**.

Duties of patrons/trustees under **different law regimes** are discussed in **Chapter 4.** For a school to be deemed Catholic, **Canon Law** requires that it must be recognised as such by the competent ecclesiastical authority – the bishop, the national Episcopal Conference or the Apostolic See. All those who are in positions of authority in respect of Catholic schools or have authority delegated to them are, under Canon Law, acting in the name of the Church and fulfil their functions 'with the diligence of a good householder'. Irrespective of who owns or acts as trustees of Catholic schools, the diocesan bishop is entitled to watch over and visit all Catholic schools in his diocese. Although the term 'trustee' does not appear in Canon Law, terms such as 'administrators' or 'directors' carry similar weight insofar as Catholic schools are concerned. The concept of **'trusteeship'** has emerged from **Equity and the Law of Trusts.** Certain charitable purposes including **'advancement of education'** and **'advancement of religion'** are recognised in **Trust Law**. The **Charities Act 2009** sets out the legal regime under which Charitable Trusts in Ireland operate and patrons/trustees of Catholic schools are advised to familiarise themselves with the provisions of this Act.

Among the many noteworthy features of the **Education Act 1998** is the recognition afforded to **deeds, articles of management, educational philosophy statements and schedules** relating to the establishment or operation of schools. Not alone does the Act recognise the functions set out in these instruments, it includes these functions among the duties and powers that are conferred on patrons/trustees. The primary or antecedent role of patrons and trustees in regard to the overall functioning of the school or network of schools is also discussed in **Chapter 4**. One of the functions of the patron/trustees is to appoint a Board of Management in accordance with agreed deeds, schedules or articles of management. Once appointed, the Board of Management along with acting on behalf of the patron/trustees has to fulfil the statutory functions set out for Boards in the provisions of the **Education Act 1998**.

Chapter 5 treats of the **interface** between the **patron/trustees** and the **Board of Management**. It is a **primary function of the Board to uphold the ethos or characteristic spirit of the school**. In the context of a Christian school, the characteristic spirit can be regarded as the special kind of spirituality associated with the founding intention of the school. While this 'special spirituality' may have many different forms of expression, it is closely linked to how the school interprets the Christian story in its rituals, liturgies, Eucharistic celebrations, religious formation and in the daily interactions within the school and between the school partners. In the composition and appointment of a Board, the patron/trustees ensure that those assuming office understand the founding intention and Catholic nature of the school and that supporting and promoting the school ethos is an essential part of their stewardship as a corporate entity.

Patrons and trustees with the assistance of the national managerial associations (CPSMA and AMCSS) provide Board members with pre-service training so that they have a clear understanding of the many functions that a Board as a corporate entity undertakes. Foremost among these functions is the duty of care to children which is carried out by putting in place policies, procedures and protocols which ensure best practice. The adoption and implementation of **Child Protection Procedures for Primary and Post Primary Schools** (October 2011) is paramount. These procedures which are the result of extensive consultation between the Department of Education and Skills and the education partners are based on **Children First – National Guidance for the Protection and Welfare of Children** (2011). The **Child Protection Procedures** require all primary schools to fully implement the **Stay Safe** programme. Due to their relevance to child protection and welfare, Boards of Management are required to have policies in place in respect of Admissions, Code of Behaviour, Dignity at work and anti-bullying, Guidance, Homework, I.C.T., SPHE/Relationships and Sexuality Education, Health and Safety, School Related Crises and Substance use/misuse.

A further significant function that a **Board of Management** fulfils is that of **employer**. The Board is responsible for those already employed in the school and ensures that its **actions comply with Employment Law and all other relevant legislation**. In recruiting new members to the teaching staff, the Board consults with the patron/trustees who nominate representatives for the Selection Committee and may issue guidelines to the Board regarding the manner in which the post is to be advertised. The patron/trustees' representatives on the Selection Committee try to ensure that the person being recruited will support the ethos of the school. Particular importance is attached to Christian vision and leadership in the recruitment of Principals and Deputy Principals.

 Efficient and effective use of resources is a recurring theme in the Education Act. While the Education Act makes it is a responsibility of the Minister, in the first instance, to ensure that public expenditure in education is productive, **Canon Law, Trust Law and Company Law** (where it applies) require those involved in the governance of schools to act with due diligence and integrity. **School Development Planning** is a prerequisite in ensuring that a school performs in an efficient and effective manner. In **Chapter 6**, the characteristics of effective schools are outlined and the various processes involved in school planning are explored. Underpinning the planning process is the religious and educational philosophy espoused by the school community. In that context, the patron/trustees may request that the **School Plan** or aspects of the plan that relate to ethos and religious formation be **submitted** to them for approval. Because of their ultimate responsibility for school performance, the **patron/trustees** are **represented at meetings between members of the Inspectorate and the Board of Management both before and after WSE-MLL.**

 Chapter 7 is devoted to treatment of the material resources – **finance and property** - that support the education enterprise. While it is not practicable for the **patron/trustees** to attend to the details of how school finances are controlled, they **ensure that Boards of Management are aware of best practice** in the implementation of monitoring and control systems. As there are some variations between primary school and voluntary secondary school financial and accounting systems, they are treated separately. Boards of Management and those directly involved in managing the schools' finances have excellent sources of information in the **CPSMA Handbook** and the **Guidelines for Financial Management in**

Voluntary Secondary Schools published by the **JMB Financial Support Services Unit (FSSU).**

Schools function in buildings and grounds that are held in trust for educational purposes, so it is important that these **assets are properly maintained, insured and if rented to other users rental arrangements comply with patron/trustee guidelines.** Any **structural changes, modifications or extensions to school buildings along with capital expenditure must have the approval of the patron/trustees.**

Incorporation of education trusts is treated in **Chapter 8**. The implications of incorporation, complying with **Company Law**, establishing **Trust Companies as Public Juridic Persons in some instances**, and the **functions of members and Boards of Directors are aspects of patronage and trusteeship that require new modes of thinking and adoption of new governance practices.** In compliance with **Canon Law**, the primary object of a Catholic Education Trust Company (set out in the Memorandum of Association) is '**to ensure and foster the advancement of education and to further the aims and purposes of (Roman) Catholic Education** . . .' A **charter** detailing the religious and educational philosophy of the Education Trust Company is appended to the Memorandum and Articles of Association. The charter provides **guiding principles** regarding the mission of Catholic education for Company members, directors, Boards of Management, staff, students and parents.

While root authority resides with the Company members, the Directors are responsible for the governance of schools and, to meet that responsibility on a day to day basis, an education trust office managed by a chief executive or education officer is established. The role and functions of officers and sub-committees are usually set out in the Articles of Association as well as the manner in which the Chief Executive/Education Officer interacts with the Board of Directors. In order to ensure best practice in governance, the Directors are advised to consider adopting the **Code of Practice for Good Governance of Community, Voluntary and Charitable Organizations in Ireland**. As trustees of the education enterprise, certain key decisions are reserved for the Board of Directors in areas such as: status of the school; property and finance; school management – appointment and dissolution of Boards of Management, dealing with matters referred by Boards of Management; school policies – determining policies required for schools and approving policies prepared by schools.

I.19 Whether or not they are closely linked with the religious congregations that founded them, the new forms of trusteeship are based on the **Business Company model**. Adopting this model for school governance at a time when the business world appears to be in turmoil affords patrons and trustees the opportunity to broaden concepts such as *wealth* and *capital* to include the spiritual dimension of the human person. While Christian education can contribute to shaping the economy, it is much more about shaping history by proclaiming the Good News and representing Christ in service to the community.

PART ONE

Chapter 1   The Catholic School in today's Irish context

1.1 There is an abundance of literature to guide those who wish to gain an understanding of the Church's teaching on the Catholic school. Since the Vatican II document on education, **Gravissimum Educationis** (1965), we have had publications from the Sacred Congregation of Catholic Education (CCE) such as **The Catholic School** (1977), **Lay Catholics in Schools: Witnesses to Faith** (1982), **Education Guidance in Human Love – Outlines for Sex Education** (1983), **The Religious Dimension of Education in a Catholic School** (1988), and **The Catholic School on the Threshold of the Third Millennium** (1997), **Consecrated Persons and their mission in Schools – Reflections and Guidelines** (2002), **Educating Together in a Catholic School** (2007) and **Circular Letter on Religious Education in Schools** (2009). These publications have given rise to much commentary and analysis in books and articles from both theologians and educators.

1.2 In recent times, the Irish Catholic Bishop's Conference have made significant contributions, by means of pastoral letters, to interpreting the Apostolic See's teaching on Catholic education for the Irish context. These publications include **Catholic Primary Schools – A Policy for Provision into the Future** (2007) and **Vision 08 – A Vision for Catholic Education** (2008). In January 2011, the Irish Episcopal Conference launched **Share the Good News – National Directory for Catechesis in Ireland** which is described in its preface as 'essential reading for those engaged in catechetical and other faith development initiatives at every level of the Church in Ireland'. From a series of publications issued or endorsed by the bishops of Northern Ireland we gain valuable insights into the mission of Catholic education in a divided society - **Life to the Full** (1996), **Proclaiming the Mission** (1996) and **Building Peace Shaping the Future** (2001).

1.3 **Catholic Schools in the Republic of Ireland – A Position Paper**, issued in April 2011 by the Catholic Schools' Partnership (CSP) draws our attention to the fact that there are 3,400 Catholic primary and post-primary schools in the Irish Republic. This publication refers to the confusing terminology surrounding the designation of different types of schools – denominational, interdenominational, multidenominational as well as the lack of non-denominational or secular schools. The negative connotation of denominational schools as 'closed and sectarian' is described in the CSP paper as being 'completely at odds with the experience in local communities throughout the country'(1).

1.4 Catholic education sources are further enriched by two publications from the Education Commission of CORI – **The Trusteeship of Catholic Voluntary Secondary Schools** (A handbook for the leaders of religious congregations - 1996) and **Guidelines on the role of Trustees in Catholic Voluntary Secondary Schools** (2005).

Parents as the Primary Educators

1.5 The contributions from the Irish Catholic Bishops' Conference re-iterate the Apostolic See's position that parents are the primary educators of their children. The primacy of parents' rights in the education of their children is also affirmed in the United Nations **Universal Declaration of Human Rights** (1948) and by various protocols to the **European Convention on Human Rights** (2). Article 42 of **Bunreacht na hÉireann** declares the family to be the primary and natural educator of the child and emphasises the freedom of parents in educational matters. Article 42.4 requires the state to: "provide **for** free primary

education". In his treatise on **Constitutional Law in Ireland,** James Casey sees deep significance in the use of the preposition "**for**" because 'behind it lies the whole history of such (primary) education in Ireland' (3). This history will be treated in the next chapter but what ought to be inferred from the use of '**for**' is that Article 42 implicitly recognises that primary schools existed for many years prior to **Bunreacht na hÉireann** and the State met its obligations by providing funding for school buildings and payment of teachers (4).

1.6 Having recognised that parents are the primary educators of their children, the Catholic Church has assisted and continues to assist parents in their efforts to meet their educational responsibilities. Ideally, the Church would like to see the State provide for a pluralism of schools, where feasible, so that parents are free to choose, in accordance with their conscience, the schools they want for their children (5). While the provisions of Article 42 of **Bunreacht na hÉireann** do not oblige parents to send their children to a particular school, in violation of their conscience, this cannot be interpreted to mean that the State is obliged to provide a pluralism of schools. On the contrary, the State has met its obligation if it ensures a place for a child in a denominational school which accepts the parents' religious or philosophical position in regard to the education of their child (6).

1.7 The Catholic Church sees it as a matter of distributive justice that the State should provide funding for Christian schools in countries where Christians form a significant majority of the population (7). This funding ought to be given not only because of the State's duty towards the democratic rights of its citizens but also because of the service these schools render to the State, a service which has been described by some commentators as '**social capital**'. As well as catering for the educational needs of children, the Catholic school because of its emphasis on respect, justice, truthfulness and goodness helps pupils to grow in maturity and become both responsive and responsible citizens.

The Nature of the Catholic School

1.8 In Church teaching, the Catholic school is seen as a microcosm of the whole Church community and, therefore, participates in the Church's evangelising mission. The mission of the Catholic school is to guide its pupils towards participation in the mission of the Church - in the parish, in the diocese and throughout the world. This evangelising mission is rooted in the Gospel of Jesus Christ. The ultimate origin of the 'mission' is God, not the Church, because the son of God, Jesus Christ, comes from the heart of the Trinity to earth (8). When Jesus was on earth he called and formed people to send them to continue the mission he had received from his Father and to extend it over time and to the ends of the earth: "Go, then, to all peoples everywhere and make them my disciples . . ." (Mt.28; 19,20).

1.9 By becoming incarnate in the person of Jesus Christ, God has identified with the human condition, with the whole of humanity across time and geographical boundaries. The Word and Spirit of God have been given a human face. In Jesus' first sermon at Nazareth, he reads from the Book of Isaiah: "The Spirit of the Lord is upon me because God has anointed me to preach the good news to the poor - - -" (Luke 4: 18 -19). The Spirit is now at work in Jesus whose mission is to proclaim the reign of God by forgiving, healing, saving, and reconciling. After Jesus' death, his disciples began to realise that, although he had been taken from them, he was still with them through the Spirit and they must continue his mission of proclaiming the reign of God. It is this sense of mission on the part of the disciples of Jesus that brings the Church into being and thus means that the Church by its very nature is missionary. Hence, the mission of the Catholic school is to proclaim the reign of God to the school community not

only by catechesis, prayer and liturgy, but also by bearing witness to Gospel values. When these values permeate the school climate, pupils will experience a work ethic based on diligence and honesty. They will be involved in a community where relationships are characterised by justice and charity. Inclusiveness and care for the vulnerable members will be particularly evident and the school community will seek to contribute constructively to the world beyond the school.

1.10 Pupils can be helped to appreciate that in celebrating the reign of God among us through liturgies, the sacraments and, particularly, the Eucharist we bring our weaknesses as well as our strengths to God's service. The celebration of the Eucharist is a continuous invitation to us to repent, to renew ourselves and to identify with the Incarnate God, Jesus Christ, at a personal level, but also to be at the service of others and to proclaim the 'good news', at the communal level.(9)

1.11 One of the challenges of the Catholic school is to try to ensure that the missionary or evangelising thrust of the school is not suffocated by other activities. If this is allowed to happen there is a great danger that graduation from the Catholic school for many pupils will also mean graduation from the Church. While there is no easy way of ensuring that graduating students will remain faithful to the Church, an approach to religious education and liturgical celebrations which is creative and relevant helps to deepen their Christian commitment and their fidelity to embracing the reign of God in their personal and communal lives.

Distinctiveness of the Catholic School

1.12 Reference to the distinctiveness of the Catholic school ought not to be construed as a claim that the Catholic school is superior to other types of schools. Rather, it is an understanding that certain characteristics are part of a genuinely Catholic school. For a school to be an instrument in the evangelising mission of the Church, it must be Catholic in its self-understanding and self-identity. This implies that the Catholic school is:

- inspired by a supernatural vision
- founded on a Christian anthropology
- animated by communion and community
- imbued by a Catholic worldview
- sustained by the witness of teaching (10).

1.13 **Inspired by a supernational vision** refers to the belief that we are made in the image of God and have an eternal destiny. Along with preparing and helping young people to become good citizens who will contribute to a world-order of justice and peace, the Catholic school will keep the eyes of pupils fixed on the vision of God and their destiny to realise this vision in the world to come through their love of God and love of their neighbour.

1.14 **Christian anthropology** proposes Christ, the incarnate Son of God and perfect human being, as the model and means for pursuing perfection: "The truth is that only in the mystery of the Incarnate Word does the mystery of man take on light" (11). Thus the Catholic school's commitment to developing the whole person has its origin in the person of Christ, with the principles and values of the Gospels providing the guiding educational norms.

1.15 The Catholic school's **community** aspect is rooted in the social nature of the human person, but also, because of its ecclesial nature, the Catholic school is a **communion** in faith**. Vision 08** speaks of Catholic schools aspiring to be 'warmly participative communities' which comprise not only pupils and teaching staffs but also parents, ancillary staff, Board members and others who may be associated with the schools. The relationships between teachers and pupils are a professional and prudent combination of familiarity and distance. The fullest collaboration of Catholic parents is sought in order to assist them in their task of handing on the Faith to their children. Part of the identity of the Catholic school is the manner in which the physical environment, signs, icons and symbols of devotion not only affirm the founding intention of the school but help to develop '**a sacramental consciousness**'. (12) A sacramental consciousness helps us to see everyday life as 'a divine-human partnership'.

1.16 Being '**imbued with a Catholic worldview'**, means that Christianity permeates the whole curriculum and that education responds to all of the needs of the human person. One of the greatest challenges of Catholic education is the restoration of the culture 'that human beings can grasp the truth of things, and, in grasping that truth, can know their duties to God, to themselves and their neighbours' (13). While the religious instruction of pupils plays a significant part in both their knowledge and practice of the faith, the Catholic school is marked by the general Christian **witness of teachers and other members of the school community.**

1.17 Research carried out by non-Catholics on a sample of Catholic schools in both the U.S. and the UK in the 1990s identified a number of factors which were deemed to contribute to the inspirational climate of these schools. In the U.S. sample, these factors were

- a commitment to humanity and humaneness in the relationships between all members of the school community which promoted a moral vision of how people ought to relate to each other in a just society
- an emphasis on the dignity of the person and the fact that human effort took precedence over efficiency or achievements.

The UK Catholic schools were described as

- beacons of hope
- caring Christian communities
- 'an oasis in a deprived area', in the case of one particular school (14).

1.18 It was not the quality of the Religious Education programmes that drew these favourable comments from the researchers but rather the climate or ethos of the schools and the Christian witness and leadership given by the adults. Their comments evoke the words of Pope Paul VI: "Modern man listens more willingly to witnesses than to teachers, and if he does listen to teachers, it is because they are witnesses" (15).

Openness and Inclusiveness

1.19 While the Catholic Church prefers a pluralism of schools, Catholic schools are open to children of other denominations. **Vision 08** draws our attention to the values of inclusiveness and being 'open to generous dialogue with Christians of other traditions and those of other faiths and none'. The presence of children from other denominations and traditions is 'seen as

an enrichment of the educational experience offered by the school and as a practical expression of the commitment to inclusivity'(16). However, openness and inclusiveness in this context do not mean relativeness or the adoption of a minimalist approach to religious beliefs and values.

1.20 Reference has been made already to the need for a Catholic school to be clear about its self-understanding and its self-identity. While emphasising the respect that ought to be afforded to the religious freedom and the personal conscience of individual pupils, the Congregation of Catholic Education states that: "the Catholic school cannot relinquish its own freedom to proclaim the Gospel and to offer a formation based on the values to be found in a Christian education" (17). Nevertheless, it will seek to co-operate with parents of other traditions who wish to provide religious instruction for their children in their own tradition.

1.21 Referring to the teaching of Pope John II in regard to other religions, Australian theologian, Kath Engebretson, states that the key element in his teaching is respect for the activity of the Holy Spirit in non-Christians and their religions (18). Pope John Paul II saw inter-religious dialogue as part of the evangelising mission of the Church. Hence, contemporary Church teaching is inclusive and allows for the grace of God working in mysterious ways in other religions and among people who seek to advance goodness, justice and peace which are the fruits of the work of the Holy Spirit. In a Catholic school context, the implication of Church teaching is that an ecumenical spirit of charity, respect and dialogue pervades the life of the school.

1.22 Acceptance of this ecumenical spirit is not, however, characterised by a reduction of all Christian expressions to the lowest common denominator. On the contrary, inter-faith dialogue should lead to a deepening appreciation of one's own religious tradition while at the same time learning and appreciating how pupils from other religious traditions pray and search for God (19).

1.23 There are practical repercussions to the Church's position on openness to all creeds and none. While the enrolment policy of the Catholic school protects the integrity of its Catholic ethos and sets out the criteria which allows it to discharge its primary responsibility of providing for the Catholic children in its parish or catchment area, it ought to incorporate also its commitment to diversity and inclusiveness.

New Evangelisation and the Catholic school

1.24 The concept of new evangelisation which is of relevance in the context of diversity and inclusiveness was developed by Pope John Paul II (20). He identifies two major aspects of new evangelisation, the first of which is the traditional mission of the Church to people who may have never heard the gospel of Jesus Christ. The second aspect relates to those who have already heard the gospel and have been baptised. In each of these aspects, Pope John Paul II identifies three different situations which require different kinds of responses. Kath Engebretson discusses the six situations to which Pope John Paul II refers and sees them as being relevant in the Catholic school context (21):

- The first group to whom the new evangelisation applies comprises adults and children who have never heard of Christ or his Church, or have only a very vague knowledge of Christianity. The general mission of the Church obliges the Catholic school to proclaim the 'good news' to these people.

- The second category or group are those who practise religions other than Christianity. The parents of many of these children choose Catholic schools because they identify values in them that support the values of their own religion. In this context, new evangelisation is not about conversion to Christianity but rather the sincere witness to the Christian way of life given by the whole school community through their respect for other genuinely held beliefs.
- A third category within the non-Christian group may be refugees or asylum seekers who belong to religions or cultures that do not embrace Christianity. The missionary activity directed towards this category is the witness to the Gospel values of love, care and compassion which are intrinsic in a true Christian community.
- The fourth among the six categories relates to those Catholic children and their families whose Christian faith is strong. New evangelisation in regard to this category has to do with catechesis. Along with providing these pupils with religious instruction suitable to their age and development, opportunities should be made available for them to exercise leadership in faith and Christian ministry in the school.
- A fifth category of pupils whose numbers are increasing comprises those whose families have lost 'a living sense of the faith' (22). The demeanour of these pupils in the religious education class, particularly as they get older, is often apathetic or hostile. Clearly, they have to be approached with a new ardour and new methods and modes of expression. New evangelisation will show 'its authenticity and unleash all its missionary force when it is carried out through the gift not only of the word proclaimed but also of the word lived'. (23)
- The sixth or final situation of new evangelisation relates to other Christian denominations. In inter-acting with Christian children of other denominations, the Catholic school is engaged in the work of the Church towards Christian unity.

1.25 The presence of the six groups identified above in our Catholic schools in Ireland poses very demanding challenges for religious educators. Drawing on Church teaching from a variety of sources, Engebretson sees the Catholic school's religious education curriculum as emphasising the Trinity, the Incarnation, Jesus Christ as true God and true man, the Judeo-Christian scriptures, the plan of salvation history, the history and theology of the Church, inter-faith dialogue and the place of the Virgin Mary in the economy of salvation. This religious education programme also involves education in, and experience of, the celebration of the Eucharist and the other sacraments and emphasises that Catholic faith and identity are nurtured by attendance at Mass on Sundays and holydays. Catholic social teaching on matters of justice and peace as well as the Church's moral and ethical teachings have to form part of the religious education programme. Above all, faith development has to include the nurturing of an ever-deepening spirituality through Scripture, liturgical celebrations and the experience of prayer (24).

Civic/Public Duty

1.26 The Catholic school cannot be considered as an entity apart from other educational institutions but must be a party 'to the world of politics, economy, culture and society as a whole' (25). A fundamental aspect of the Catholic Church's teaching on the sacredness and dignity of human life is the right to participate, as a matter of justice, in economical, political, social and cultural life. The manner in which society organises itself affects human dignity and the capacity of people to grow and mature in community. The organization of the Catholic school community through its participative structures and its concern for the vulnerable members should model the principles of the Church's moral and social teaching.

1.27 Pupils are helped to understand that respecting human dignity means that every person has not only a right to life but also a right to basic human needs such as food, shelter, clothing, health care, education and gainful employment. Corresponding to these rights are duties and responsibilities to fellow members of the human community, starting with the family, the local community and the wider society. It has to be regarded as a grave injustice to treat any person or group as if they were non-members of the human community. Bullying and harassment are an affront to the dignity of the person because of the psychological damage they cause to the victim. In the school context, the perpetrators of bullying and harassment need to be made aware of the injustice and pain they have inflicted on victims, the damage they have done to relationships within the community and the need to apologise sincerely and to restore relationships.

1.28 Pope Benedict XVI tells us that justice and peace are promoted 'not merely by relationships of rights and duties, but to an even greater and more fundamental extent by relationships of gratuitousness, mercy and communion' (26). Interpreting the Pope's encyclical for today's Irish context, the Council for Justice and Peace of the Irish Episcopal Conference describe the principle of gift (gratuitousness) 'as a fundamental principle of social life' (27). In a cultural mindset of advanced capitalism it can be forgotten that not everything is earned, for example:

> "one's health, personality, physical and intellectual endowments not to speak of the love which one received as a child, one's early school environment and those friendships that shape the quality of our adult lives, are all received as gift" (28).

1.29 The **gift economy** which also includes a multiplicity of forms of voluntary work operates from a very different set of values than those that have given rise to the 'bonus culture' - which seems to be based on a conviction that everything that one receives is earned. The emergence of a more radical individualism in Western society in the late twentieth and early twenty first century is a trend which requires serious examination. In a school context, where a significant proportion of the curriculum is driven by the pursuit of self-interest (e.g. CAO points and places in Third Level colleges), we must constantly remind pupils, by word and example, of the persistence of a strong sense of solidarity among Irish people for the most vulnerable members of society.

1.30 It is repeated many times in Catholic social teaching that the moral test of society is how it treats its most vulnerable members. The 'option for the poor' is not just some kind of vague political slogan but an essential part of society's commitment to achieve the **common good**. The obligation to 'love one's neighbour' extends beyond the people we know to the whole human family. Courses, programmes and activities need to be devised and organised for pupils to sensitise them to the needs of the poor and vulnerable both locally and globally. Concepts such as Overseas Development Aid and the '**global common good**' need to be explained and discussed. Referring to our global obligations in an interdependent world, Pope John Paul II speaks of the virtue of '**solidarity**' at the core of which is the pursuit of justice and peace (29).

1.31 A further civic duty on the part of the Catholic school is to promote respect for the Creator by our stewardship of creation. The earth and its goods are not just for the benefit of this generation – we are but their temporary stewards or trustees. By acting as if we had dominion over the natural world, polluting the environment, and undermining the ecological

balance we are showing an arrogant disregard for future generations. As demonstrated by Lorna Gold (30), we are already witnessing the impact of environmental degradation on those living in poverty. Climate change is seriously affecting food production in Sub-Saharan Africa due to decreased rainfall while, in other parts of the world, millions of poor people who live in floodplains are at grave risk from rising sea-levels. An '**ecological conversion**' (31) is needed if we are to avoid disasters in many of the world's poorest regions.

1.32 Along with preparing its pupils for a career and for life, the Catholic school's contribution to civic society must also enable pupils to identify and confront the selfishness and injustice caused by a multitude of acts and decisions which do not contribute to the **common good**. Tomorrow's leaders must have a proper balance in their self-understanding as individuals and as members of society. They must also have an awareness of the structural systems and political priorities that perpetuate injustice and inequality. However, the Christian's inspiration for putting right what is wrong will not come merely from a sociological or political perspective but, more fundamentally, from 'the spiritual attitudes which define each individual's relationship with self, with neighbour, even with the remotest human communities, and with nature itself' (32).

Integration of Faith and Culture

1.33 Integration of faith and culture is a recurring theme in Church documents on Catholic education. While culture in the past was 'permeated by a core set of meanings that helped to define it' (33), today there are many competing and conflicting value systems. Among young people there is a very strong subculture of experimentation in the areas of drink, drugs and sexuality (34) and there is little doubt that access to computer social-media sites is contributing to increasing complexity and confusion in their life choices. Many of the influences to which young people are subjected contribute to the cult of individualism and self-gratification and their attendant lack of empathy for vulnerable people who feel marginalised because they do not have a sense of community.

1.34 The challenge for the Christian educator, amid all of these influences, is to help to transform young people from within, to teach them 'to share their personal lives with God . . . to transcend their individualism and discover, in the light of faith, their specific vocation to live responsibly in a community with others' (35). Among the key points made about the integration of faith and culture in **The Catholic School** are:

- the importance of a deep awareness of the **value of knowledge** as such
- the integrity of individual subjects as they enable pupils to acquire knowledge, skills and attitudes towards development of personality and playing an active part in the community
- considering human knowledge as a truth to be discovered
- the discovery and awareness of the truth leading to the discovery of Truth itself
- the enrichment of human knowledge with the data of faith
- guiding pupils towards the Uncreated Source of all knowledge (36).

1.35 This last point reflects the conviction that all human knowledge is based on accumulated human experiences of a universe created by God.

1.36 The Christian understanding of reality and the human person informs discussion of topics that have a religious dimension, such as the origin and meaning of human life, human

relationships – love, marriage and family, human conception -, suffering and death, the nature of artistic beauty, the relationship between people and economics. All of these topics will be treated in the Religious Education class but when they arise in other subject areas teachers ought to be aware of basic Catholic teaching on God, the dignity of the human person, human rights, social justice, the common good and human sexuality.

1.37 Religious Education comprises both information (content) and formation (catechesis). Content of the Religious Education programme is imparted in such a way that pupils will eventually have a thorough knowledge and understanding of the Catholic faith while catechesis is essentially about 'socialising people into Christian identity' (37). Integration of faith and culture involves the whole person – the thinking, feeling, reflective, interpreting person. It involves accepting the rationality and truth of Christianity and applying Christian norms of behaviour, as exemplified in the Gospels, to thought and conduct. Integration will have a profound impact on the self esteem of the individual pupil and the recognition of the human worth and potential of fellow pupils. The Christian mindset will influence values, decisions, interpretation of history and current affairs, indeed the full range of life experiences. A mind and heart imbued with a commitment to the person of Christ will recognize that many aspects of modern culture are not contributing to a more compassionate, humane world or the advancement of truth and beauty in the aesthetic world.

1.38 The integration of culture and faith among the school community needs to be supported by an environment where

- teaching methodologies affirm the variety of gifts and intelligences among learners
- school programmes promote active learning
- different approaches are used in motivating and supporting learning
- priority is given to achievement of goals rather than interpersonal competition.

1.39 The striving for excellence which features so prominently in many school mission statements and charters inspires not only approaches to teaching and learning but also the systems, structures and practices that ensure a collaborative and supportive school climate. Ideally, striving for perfection modelled in the person of Christ, which is the vocation of every Christian, is paralleled by striving for excellence on the part of those who lead the Catholic school community.

The Future

1.40 Educational philosophy statements and charters devised by Patrons and Trustees in consultation with the education partners summarise many of the features of Catholic schools that have been described above. These statements and charters have their own unique modes of expression as they endeavour to encapsulate the founding intentions of schools and, in the case of religious congregations, the particular charisms of founders. However, the transmission of the charism and characteristic spirit of Catholic schools from one generation to the next cannot be taken for granted in the future (38). Since lay people are becoming more involved not only in leadership roles in schools and on Boards of Management but also at Trustee level, much thought needs to be given to the support they need in their efforts to maintain the characteristic spirit in Catholic schools.

1.41 The roles of the Principal, Deputy Principal, chaplains and members of Religious Education departments are clearly of fundamental importance in articulating the missionary

vision of the school and striving to give it effect. The whole school community, pupils, parents, teachers, ancillary staff and Board of Management members need to be keenly aware of the founding intention and characteristic spirit of the school and the commitment of those in leadership roles to the ideals of Catholic education. The extent to which one can expect all teachers to share the missionary vision is difficult to assess in the Irish context where many of them have not necessarily made a decision to teach in a school which is regarded as an 'ecclesial community' (39). They are committed to teaching but, to a large extent, they can find teaching positions only in Catholic schools. Like the student population, many teachers are also influenced 'by the complex fragmentation of post-modernity' (40) as well as by growing materialism and secularism and, while they may support many of the humanistic aspects of the school ethos, they are no longer willing to share in the sacramental, liturgical or prayer life of the school. Some of these teachers may fit into the category of 'the baptised who have lost their sense of faith' (41) and for whom the **New Evangelisation** described earlier may be appropriate. They may, however, be open to dialogue and reconsideration of their position in regard to their understanding of, and commitment to, the Christian faith.

1.42 Some schools have embarked upon the practice of having reflective sessions or retreats, outside of school hours, to which all members of staff are invited. These sessions, which in some instances are inspired by the positive experiences Principals have had in networking sessions with fellow Principals, provide opportunities for staff members who are committed to the missionary vision of the school to invite along their peers. In such an environment, there is little doubt that the Holy Spirit is at work. If the Catholic school is to be a genuine ecclesial community, evangelisation must include adults - be they parents, teachers or Board of Management members - as well as pupils. As stated in **Share the Good News**: "particular situations require particular responses, but all evangelising action must be seen as a unity" (42). Patrons and trustees need to be creative and constructive in their support for evangelising initiatives undertaken both through school networks and by individual schools at local level.

1.43 Looking to the future, it is a positive development that a number of third level Colleges are providing post-graduate qualifications in educational management and leadership which include modules on theology, catechesis and spirituality. Some trustees are actively promoting these third level courses in their schools. Future leaders are clearly entitled to receive the training and formation that will assist and inspire them to become the visionary leaders that Catholic schools will need if they are to continue to participate constructively in the Church's evangelising mission.

Chapter 2   **Catholic Primary Education**

2.1 In his address of 19th April, 2011, for the launch of the **Forum on Patronage and Pluralism in the Primary Sector**, Professor John Coolahan referred to the great desire for education that existed in Irish society over recent centuries. The information provided in the educational census of 1824 that there were over 9,000 'hedge schools' catering for two out of every five children is not only a clear indicator of the degree of interest in education at that time but also a reflection of the growing confidence among Catholics subsequent to the Relief Acts of 1782 and 1792 which restored to Catholics the right to teach in schools. This right was subject to conditions such as procuring a licence from the local Church of Ireland Rector. No state funding was provided for Catholic schools prior to 1831(1).

2.2 Despite persecution, dispossession and penal legislation, the love of learning associated with the Irish monastic schools during the period from the sixth to the tenth centuries was never fully extinguished. The tradition of people going abroad to found schools and monasteries which started during this period continued through the centuries, albeit to further their own education rather than to found schools or monasteries in later times. One of the reasons why the Counter-Reformation was so successful in Ireland was that the tradition of young men going to the continent to train as priests in various seminaries across Catholic Europe continued through penal times. Young women also went abroad, in some instances to join convents but in other instances, for example Nano Nagle, to receive a general education (2).

2.3 These young people risked their lives both in leaving the country and on their return, particularly in the case of priests when the Penal Laws were being rigorously enforced. Having been trained for the priesthood in accordance with the norms established by the Council of Trent, returning priests had a good knowledge of Catholic doctrine and so they were well prepared to confront the proselytising which was so prevalent in eighteenth and nineteenth century Ireland (3). In this work, they were greatly assisted by the Confraternity of Christian Doctrine which was established in the diocese of Kildare and Leighlin in 1788 and, by the mid 1820s, had extended throughout the country (4).

Religious Congregations

2.4 While the 'hedge schools' proliferated in rural areas in the early years of the nineteenth century, provision for catholic education on the part of convent and monastery schools in the cities and towns also grew steadily. Nano Nagle who was born into a wealthy Catholic family in Cork was educated both at home and in France. For twenty years before she founded the Institute of the Charitable Instruction of the Sacred Heart of Jesus in 1775, she had worked for the poor of the city of Cork. Her Institute was recognised by Pope Pius VII after her death and given the official title of the Congregation of the Presentation of the Blessed Virgin Mary. During her lifetime Nano Nagle opened a number of schools in her native city and invited the Ursuline Sisters to Cork in 1771 (5).

2.5 The Presentation schools became a feature of many towns in Ireland including Waterford where Edmund Rice came in contact with the work of the new congregation. From 1802 onwards Brother Rice and his congregations of Christian Brothers and Presentation Brothers hoped to do for boys what the Presentation sisters were doing for girls. By 1820, Edmund Rice had opened ten separate schools in five dioceses (6).

2.6 Catherine McCauley who was to become the founder of the Mercy Congregation opened the House of Mercy in Baggot Street, Dublin, in 1827 for the education of the poor. On the recommendation of Archbishop Murray, Catherine along with two of her companions attended the Presentation Convent at George's Hill for their novitiate and, having been professed, returned to the House of Mercy to found the Congregation of Sisters of Mercy in 1831. At the time of her death, ten years later, Catherine McCauley had founded ten schools in Ireland (7).

2.7 Mary Aikenhead (b.1787) who had been baptised into the Anglican Community was received into the Catholic Church in 1802. In 1812, Mary moved from Cork to Dublin and discussed the founding of a new religious congregation with Archbishop Murray. In 1815 she founded the Religious Sisters of Charity. In the 1820s and 1830s the work of the Sisters of Charity grew and expanded from Dublin to Cork. This work included the establishment of schools, hospitals and orphanages (8). The first Loreto school in Ireland was opened by Frances Ball (Mother Teresa), at the invitation of Archbishop Murray, in Rathfarnham in 1823. The Jesuits who had been involved in missionary activity in Ireland at various times since the sixteenth century founded colleges in Clongowes Wood (1814) and Rahan (1818). Several other religious congregations opened schools in the course of the nineteenth century to the extent that by the end of the century there were very few towns that did not have a convent or monastery school, or both.

Emergence of the National School System

2.8 Despite the best efforts of bishops, priests, religious congregations and lay people, it was becoming ever more obvious that government aid was necessary in order to provide adequate educational facilities. While some government aid had been granted to the Kildare Place Society from 1815 onwards for the education of the poor, the fact that this Society made reading of the Bible obligatory caused suspicion and anxiety among Catholics. They were concerned that both the Kildare Place Society and certain evangelising groups who received school grants from the Society were engaged in proselytising (9).

2.9 After several approaches to the government on the part of the Catholic bishops both before and after Catholic Emancipation, Edward Stanley, the new Chief Secretary for Ireland, outlined to parliament, in September 1831, his scheme for elementary education in Ireland. The government grant to the Kildare Place Society was withdrawn and a Board of seven commissioners, two of whom were Catholics – Archbishop Murray and A.R. Blake – was established. In a letter to the Duke of Leinster in October 1831(to become known as the **Stanley Letter**), the Chief Secretary outlined the main features of the new National system. These can be summarised as follows:

- combined literary and separate religious education
- one or two days of each week would be set aside for separate religious education to be approved by the clergy of the different religious persuasions
- successful applicants for Board grants were given the power to appoint teachers
- a local contribution of not less than one third of the cost was required for the building of a new school house which was vested in trustees chosen by the applicants and approved by the Board. These schools were described as vested. Existing schools, described as non-vested, could also apply for funds for teachers' salaries and school books

- the Board was to have complete control over all books used by the schools
- all teachers would be trained in a Model School in Dublin (10).

2.10 The provisions of the Stanley scheme made it clear that, in the interest of creating a multi-denominational system, priority would be given by the Board to applications from:

- Protestant and Roman Catholic clergy of the parish
- one of the clergy and a certain number of parishioners professing a different creed
- parishioners of different denominations (11).

Reaction to the Stanley Scheme

2.11 As frequently happens with initiatives based on a spirit of compromise, nobody was entirely happy with the outcomes. Opposition from the Protestant Churches led to some amendments to rules relating to religious education while, within the Catholic Church, some bishops and priests accepted the provisions of the Stanley scheme as being the best that could be achieved for the time being. Other bishops, particularly Archbishop John McHale of Tuam, and members of the clergy were strongly opposed to certain aspects of the national schools' system. Their grounds for opposition to the system included dissatisfaction with the separation of religious and secular education and the neglect of the Irish language and Irish culture (12). The 'national school' designation referred to its nationwide dimension rather than anything to do with culture or language. Not until 1883 was the use of Irish allowed as a medium of instruction in Gaeltacht areas and then only 'as an aid to the elucidation of English' (13). There is little doubt, therefore, that the national school system was a significant factor in the decline of the Irish language.

2.12 Among the opponents to the national school system were the Christian Brothers. While, out of deference to Archbishop Murray, they allowed six of their schools to join the system as an experiment, four of these schools were withdrawn within a couple of years due to constrictions regarding religious instruction and devotional exercises (14). Another major bone of contention for Catholics was the establishment of Model schools by the National Board in various towns around the country. These Model schools of which twenty six were established between 1848 and 1863 contained boarding facilities for pupil teachers and were conducted strictly in accordance with the mixed denominational principle. In 1863 a ban was imposed by the Catholic Church authorities on the attendance by Catholics at Model schools. Teachers trained in the Model schools were not to be employed in schools under Catholic patronage (15).

2.13 Due to pressures of one kind or another from the various Church groups and because the English Treasury was also keen to have a review of the system, a Royal Commission of Inquiry into Primary Education (Powis Commission) was set up in 1868.

The Powis Commission

2.14 The Powis Commission report was submitted to the government in May 1870. The Report indicated that 77% of the school houses in Ireland were non-vested and that only 34% of the teaching force had received formal training (16). This latter figure reflects the low level of attendance on the part of Catholics at the Model schools. Among the recommendations of importance from a Catholic perspective were:

- a payment by results system to support teachers' basic remuneration should be introduced
- in a locality where there were two schools with mixed enrolments, that they be recognised as two schools catering for single denominations
- that, apart from Marlborough Street, the Model schools be phased out
- that training schools for teachers should be given to the control of religious bodies, under certain conditions
- that all teachers have formal pre-service training of twelve months' duration(17).

2.15 While, apart from the introduction of 'payment by results', the recommendations of the Powis Commission did not have immediate effect, they tended to confirm the denominational trend. Henceforward, the national schools were effectively ('de facto') denominational parish schools. However, no short term initiative was undertaken to meet Catholic demands about teacher training. This issue was not addressed until 1883 when the National Board agreed to grant-aid the establishment of training colleges under 'local management'. Three training colleges were quickly established – St. Patrick's, Drumcondra, Our Lady of Mercy, Baggott Street and a Church of Ireland training college in Kildare Place. The original training college in Marlborough continued to operate and, unlike the new colleges, was fully financed from government funds. De La Salle College, Waterford (1891) and Mary Immaculate College, Limerick (1901) further enhanced provision for training Catholic teachers.

2.16 When the Catholic bishops met in synod in 1900 they accepted that considerable progress had been made as the 'system of National education . . . is now in fact, whatever it is in name, as denominational almost as we could desire', but they expressed reservations about two particular areas – the restrictions on the use of religious emblems in classrooms and the continued existence of the Model schools (18). While some Catholics continued to attend Model schools, they had effectively become denominational schools for Protestants.

2.17 During the remaining 20 years of British rule, the findings of commissions headed by Killanin on primary education and Moloney on intermediate education substantially influenced the contents of the Irish Education Bill introduced by McPherson in November 1919. Among a range of reforms, the McPherson Bill proposed the establishment of a central Department of Education. The Bill was vehemently opposed by the Catholic bishops who at their meeting in January 1920 described it as 'an attempt on the part of the British government to grip the mind of the people of Ireland and form it according to its own wishes' (19). The McPherson Bill did not pass into law.

The New State

2.18 When the Irish State came into being in 1922, the rules for national schools were still based on the principle that state aid would be provided only for schools that were open to children of all religious persuasions. In practice, the state-aided national school system had become a denominational school system under the patronage of either Catholic or Protestant bishops or clergy. The National Education Board was dissolved and its powers were delegated to a chief executive for the primary sector who was accountable to the Minister for Education. The teacher training college in Marlborough Street was closed. Given the re-action to the McPherson Bill, the new government took its time about setting up a Department of Education which eventually happened in 1924. The new Department took over responsibility for all education services and an arrangement was reached with the Christian Brothers which enabled them to bring their schools into the national system in 1925 (20).

2.19 The Catholic bishops at their synod in Maynooth in 1927 commented favourably on the new national school system. Reference was made to the fact that the schools were still *de jure* neutral or non-denominational and concern was expressed that the management of the Model schools which were still in existence did not have any clerical involvement. The solution adopted by the government so that Catholic children could attend the Model schools was to appoint members of the clergy as managers or co-managers while maintaining the schools in state ownership (21).

2.20 While it did not change the *de jure* position of primary schools, Bunreacht na hÉireann (1937) allowed for continued state support for schools run on denominational grounds. Article 44.2.4 implicitly recognises the denominational nature of the schools in stipulating that the State '**shall not discriminate between schools under the management of different religious denominations'**. The same article asserts '**the right of any child to attend a school receiving public money without attending religious instruction at the school'**. Commenting on the *de jure* aspect of the national education system in an article written by him in 1938, Rev. M. Brennan, Professor of Education in St. Patrick's College, Maynooth, said that it was 'far more important to have the reality without the legal forms than the legal forms without the reality'' (22). The reality to which he referred was reflected in the preamble to the Programme of Primary Instruction of 1926 which was repeated in the Rules and Regulations of the Department, 1932:

"Of all the parts of a school curriculum Religious Instruction is by far the most important, as its subject matter, God's honour and service, includes the proper use of all man's faculties . . . a religious spirit should inform and vivify the whole work of the school. The teacher – while careful, in the presence of children of different religious beliefs, not to touch on matters of controversy – should constantly inculcate, in connection with secular subjects, the practice of charity, justice, truth, purity, patience, temperance, obedience to lawful authority, and all the other moral virtues'' (23).

2.21 Formal recognition of the denominational nature of the national school system was eventually given in the **Rules for National Schools under the Department of Education** (1965). Having cited the relevant Articles of the Constitution in the preface to the Rules, the authors state the following:

"In pursuance of the provision of these Articles the State provides for free primary education for children in national schools and gives explicit recognition to the denominational character of these schools".

2.22 The denominational nature of the system is further underlined in par.3 of Chapter 1:

"State aid for the establishment of a new national school may be granted on application by the representative of a religious denomination where the number of pupils of that denomination in a particular area is sufficient to warrant the establishment and continuance of such a school".

Patronage of Primary Schools

2.23 The general functions of patronage and trusteeship arising from the Education Act 1998 will be discussed in Chapter 4. Here, it is a matter of outlining the origin and meaning of the

term *patron* in the context of national (primary) education. As already indicated, the Stanley letter to the Duke of Leinster announced the establishment of the national school system. A further explanatory letter by Edward Stanley set out the nature of the national schools:

"The National Schools are not so much the schools of the Government as of local Patrons and Managers who submit voluntarily to certain regulations in order to entitle them to receive aid from the Government" (24).

2.24 In expressing the nature of the national schools thus, Stanley appeared to want to keep the state 'at-arm's-length' from the schools in order to avoid difficulties regarding religious belief. The patron could be a school committee (Church of Ireland) or trustees. Being patron entitled the person or committee to undertake the general management of the school or to delegate the management of the school to another person who would then become the 'local manager'. The vast majority of the applicants for patronage of schools were clergymen who in the case of the Catholic Church were priests, for the most part, acting with the approval of their bishop. By the end of the nineteenth century the managerial system in the case of parish schools was evolving towards the Bishop as ex officio patron with the parish priest/rector as local manager (25). The early **Rules for National schools** state the following:

"The person who applies in the first instance to have the school recognised as a national school is recognised as patron, unless it is otherwise specified in the application, but when a school is vested in trustees, the trustees are patron . . ." (26).

2.25 The 1965 version of the **Rules for National Schools** links patronage with trusteeship and vesting:

"Trustees of a vested school or recognised school committees constituted in accordance with Schedule 1 or other suitable person may be recognised as patron". (Ch.III, 14 .1)

2.26 Historically, recognition was given to three types of national schools: (a) non-vested schools which received no state subvention towards building costs', (b) Model schools which were vested in the Minister for Education, and (c) schools vested in trustees. Catholic primary schools belonged for the most part to this latter group. The trustees of the schools are the people whose names appear in the lease which is entered into by the landowners when the school is established. In the case of Catholic schools the original names were those of senior clergy men for parish schools, senior members of the Religious Congregation (usually 4) for convent/monastery schools and, in instances of joint trusteeship, religious and members of the clergy. With regard to the involvement of religious congregations in primary schools, it is relevant to note that convent/monastery schools operate in properties owned by the congregation, properties owned by the diocese and properties owned jointly (27).

2.27 With the passage of time, many of the original trustees of national schools died and in a majority of cases steps had not been taken to replace them. The Secretary of the Department of Education brought this to the attention of the bishops in April 1962 when, in correspondence to them, he stated that 'in the majority of schools there is no officially recognised patron'. To overcome this problem, he suggested that the bishops consider asking the Minister to recognise the ordinary of the diocese as patron of all schools under the management of the parochial clergy. This request was made and, thereafter, the bishop was officially recognised as the patron of all schools, in the diocese, that had clerical managers (29).

2.28 In the negotiations leading to the establishment of Boards of Management for primary schools in 1975, it was agreed that along with being patron of schools under clerical management the Bishop should also be accepted as patron of all those convent/monastery schools where he was not already patron. A joint submission to the Minister for Education, in October 1975, on behalf of the Episcopal Commission for Education and the Education Commission of CMRS (now CORI) set out their position as follows:

"The patron under this scheme shall be the Roman Catholic Bishop for the time being of . . . Should there be a vacancy in this office the rights of nomination shall be exercised by the (Vicar Capitular) of the Diocese of . . ." (30).

2.29 In the case of many convent/monastery schools the bishop was not one of the named trustees of the property but his designation as patron by the trustees of these schools is permitted under par. 14 (1) of the **Rules for National Schools (**1965) cited in par. 2.25. From the perspective of the Catholic Church, the bishop as the person with ultimate responsibility under Canon Law for Catholic education in his diocese (31) is obviously 'a suitable person' for the role of Patron.

The Education Act 1998 and the Patron of the Catholic Primary School

2.30 The **Education Act 1998** gives a statutory basis to the role of the patron. In Section 8 of the Act, the rules for recognition of a person, or persons, as patron are set out. These rules include the following provision:

 "The person who, at the commencement of this section, is recognised by the Minister as the patron of a primary school . . . shall be deemed to be the patron for the purposes of this Act and the Minister shall enter his, her or their name, as appropriate, in a register kept for that purpose by the Minister".

2.31 In effect, this section of the Education Act gives recognition to the status quo as regards Catholic primary schools all of which have had the bishop of the diocese as patron since 1975. The patron is empowered to manage the school personally or appoint a suitable person or Board of Management to act as manager. Along with having the power to appoint a Board, the ultimate authority of the patron regarding school management is recognised in the provisions of section 16 of the Education Act 1998:

"Whenever the patron dissolves a Board, the patron may, subject to the approval of the Minister, appoint any person or body of persons as the patron thinks fit to perform the functions of the board".

2.32 Section 9 of the **Education Act 1998** details the functions of a recognised school. Sections 10 and 11 of the Act establish the basis for recognition of a proposed new school and the grounds for withdrawal of recognition for an existing school. While it is clear that the patron has a crucial role in regard to the initial recognition of a school, determining the school's ethos and appointing a Board of Management, the Act does not indicate what the role of the patron is in regard to the school functions that have been specified in Section 9. It is reasonable to assume, however, that the relationship between the patron and the Board of Management (treated in detail later) is characterised by a high degree of collaboration, with the Board having a clear understanding of its role and function both in respect of the patron

and the Department of Education and Skills. Moreover, Section 14(2) of the Education Act 1998 states that a Board shall fulfil in respect of the school 'the functions assigned to that school by this Act' (32). (See also Ch.5)

2.33 Another relationship in regard to Catholic primary schools that needs clarification is that between the patron and the trustees or registered owners of school properties. In most dioceses, Catholic parochial school property is held in parish or diocesan trusts and the trustees are usually senior members of the clergy nominated by the bishop. In the case of schools owned by religious congregations or Trust companies, the trustees are those legally nominated as such by the individual religious congregation or Trust company. The trustees, as parties to the lease of the school premises, undertake that the buildings shall continue to be used as a national school for the term of the lease and guarantee that the premises are insured against fire and tempest (32). In the case of schools in the trusteeship of religious congregations, particular attention is given in their charter or religious and educational philosophy statement to the charism of their founder.

2.34 While the role of the trustees does not encroach on the rights and duties of the patron, in the case of traditional convent/monastery schools, some of which are now under the trusteeship of Trust companies, there is an understanding that the local superior of the congregation, or the Trust company, will put forward nominees for the Board of Management and recommend a chairperson for appointment by the patron. Diocesan education secretaries or education offices are reminded of this courtesy when new Boards are due to be appointed.

2.35 A number of religious congregations have now transferred their primary schools to diocesan ownership. Where this is contemplated, the religious congregation enters into dialogue with the bishop. Apart from contemplated withdrawals, regular contact is recommended between persons acting on behalf of schools under the trusteeship of religious congregations and Trust companies and persons acting on behalf of the patron, be they diocesan secretaries or directors of education offices.

Deed of Variation

2.36 When Boards of Management were introduced for primary schools in 1975 the patron nominated half the Board members including the chairperson. This arrangement gave the patron a voting majority if needed to protect the patron's interest. In 1997, the Minister for Education was keen that the representation on Boards would be more democratic and asked patrons to forego two of their places. In order to copper-fasten the Catholic ethos of their schools the patrons sought an amendment to the school lease. The new document which supplements the original lease provides that the school will be managed in accordance with the rules laid down by the Minister for Education and in accordance with a Roman Catholic ethos. This new document is called a Deed of Variation (33).

2.37 While the Minister for Education was to be a signatory to the Deed, it was not viewed as an undertaking on the Minister's part to uphold the ethos of the school. It was a matter of the Minister's signature guaranteeing the patron's right to uphold the ethos. Patrons set about having all the deeds of their schools amended in accordance with the Deed of Variation but in the course of 2004 the Minister, on the basis of advice from Senior Counsel procured by the Chief State Solicitor, discontinued signing the deeds.

2.38 The unilateral withdrawal by the Minister from an agreement entered into in good faith has been a cause of grave concern to the patrons. An amended Deed of Variation has been drafted and agreed with the Department of Education and Skills but, to date, there is no instance of the amended Deed being signed by the Minister.

The Education Forum on Patronage and Pluralism

2.39 A **Forum on Patronage and Pluralism in the Primary Sector** was announced by Minister for Education and Skills, Mr. Ruairí Quinn, soon after he assumed office on 9th March 2011. Shortly before that, in February 2011, **Revised Criteria and Procedures for Establishment of New Primary Schools – Report of the Commission on School Accommodation** was published. Statistics presented in this Report indicate that 89.65% of primary schools were under Catholic patronage, 5.49% under Church of Ireland patronage and a further 0.69% under the patronage of other religious denominations. Among the issues regarding patronage discussed in the Report are: selection process for the patron of a new school; parental demand for choice of patron; transfer and change of patron. The Report refers to the increasing **diversity** in Irish Society and the possibility, raised initially by the Catholic Church authorities themselves, of the Catholic Church divesting itself of the patronage of certain primary schools (34). In his opening address to the Forum on Patronage and Pluralism on 19th April, 2011, Professor John Coolahan, chairperson, focused on **diversity** in his summary of the three main themes which Minister Quinn wished the Forum to address:

- establishing the demand for diversity where the existing school provision is inadequate
- the practicalities of managing the diversity of patronage
- how diversity can be accommodated where just one or two schools operate, and the population does not justify another one.

2.40 The Minister allowed for the emergence of other themes, but these were the core issues he wished the Forum to concentrate upon. Thirteen main stakeholders were invited to make submissions by 7th June 2011 in line with the themes set out by the Minister. Three groups who, specifically, represent the interests of Catholic education were among the stakeholders invited to make submissions – The Council for Education of the Irish Episcopal Conference, the Association of Trustees of Catholic Schools (ATCS) and the Catholic Primary School Management Association (CPSMA).

2.41 In **Catholic Primary Schools** (2007), the Irish Catholic Bishops' Conference recognised the 'reality of pluralism' when stating that in some areas 'circumstances may have changed and an existing school may no longer be viable as a Catholic school' (35). The submissions to the Forum from the Catholic sector reaffirm the stance taken by the Bishops in 2007 and recognise, both explicitly and implicitly, the need for diversity of provision:

"There is general acceptance within the Catholic sector that, as far as patronage of primary schools is concerned, current provision does not reflect the diversity that currently exists" (36).

"The Catholic Church has no desire to act as Patron of schools where the local community would prefer another Patron" (37)

"While it is agreed that diversity of provision in primary education is needed, the starting point should be the level of demand". (38)

2.42 The submissions from the Catholic sector point to the importance of not equating pluralism with secularism and refer to the tendency on the part of some commentators to regard secularism as neutral. These commentators overlook the fact that secularists also hold a worldview or philosophical position which tends to represent religious belief as irrational or less worthy than secularism.

2.43 While accepting the need for diversity of provision, the Catholic sector, in their submissions, emphasise the open and inclusive nature of their schools. Catholic schools have traditionally welcomed pupils from all religious beliefs and have been to the forefront, since the late nineteen nineties, in accommodating and integrating large numbers of immigrant pupils within school and local communities. Social inclusion has also meant caring for pupils with special needs, pupils from traveller communities and from all strata of society. Diversity of provision in the future should not to lead to more socially exclusive schools or a multi-tiered education system.

2.44 Among the elements, in the responses from the Catholic sector, on what ought to be considered in establishing diversity of schools are the following:

- the possibility of diversity within a school
- the availability of in-depth information so that parents, Boards of Management, teachers and local communities can engage in informed discussion
- when establishing parental choice and the views of local communities, the requirements of future generation ought also to be considered
- where there is a diversity of schools, the need for the provision of transport so that parents can send their children to the school of their choice
- where sufficient demand for a school under different patronage can be demonstrated, all the stakeholders should work in partnership towards this goal
- demographics – current and projected population trends
- any change in the patronage of a given school ought to be negotiated locally and not imposed from outside or through social engineering
- the need for a transparent system regarding the patronage of new schools with the same qualifying criteria applying to all applicants
- rigorous standards and principles in regard to the transparency, inclusiveness, independence, consistency and objectivity of the consultation process, the decision-making process and the implementation of decisions.

2.45 Before addressing the practicalities of managing the diversification of patronage, it is worth noting the response of the Catholic sector to how diversity can be accommodated where just one or two schools operate. These responses are made either directly or by implication in the three submissions:

- through the tradition of catering for diversity in existing Faith-schools
- through the establishment of joint patronage bodies similar to the model in operation for Community and Comprehensive schools at second level
- the granting of a licence by existing schools to other providers to use part of the school premises – legal safeguards would be needed

- a shared campus arrangement – legal and administrative issues would need to be addressed in advance.

2.46 It is strongly recommended that arrangements for catering for diversity in line with any of the scenarios outlined above, or other possible scenarios, be tested on a pilot basis.

2.47 The practicalities of managing the diversity of patronage are multifarious and complex, particularly in the case of divesting schools and school property where there is no longer a demand for Catholic patronage. There are legal issues relating to property held in trust for specific charitable purposes. Trustees of schools held by Diocesan Trusts, Religious Congregations or Education Trust Boards need to be aware not only of the legal ramifications surrounding the alienation of charitable trust property but also difficulties surrounding the lease of such property.

2.48 Apart from legal difficulties, divesting of patronage can have an impact on Boards of Management, teaching staff, ancillary staff, parents and the local community. There may be members of each of these constituent elements whose views about the patronage of the school do not prevail. It is important that the parties involved in the decision-making process are sensitive to feelings and try to avoid a situation where people see themselves as 'winners' or 'losers'.

The challenges that lie ahead

2.49 There is little doubt that Catholic primary schools will have to operate in a more pluralist and secularist environment in the future. However, in spite of growing secularisation and the impact of consumerism, the Census figures for 2006 suggest that, while there will be a reduction in the 89.6% of primary schools currently under Catholic patronage, a very significant percentage of primary schools will continue as Catholic schools. The patrons, trustees and managers of these schools can take inspiration from the commitment of those who struggled to keep the Catholic flame burning in the seventeenth and eighteenth centuries and from their successors in the nineteenth century who brought Catholic education to all strata of society in both urban and rural Ireland. The Catholic school of the future will need to reflect on what it is to be part of the local Christian community and the energy it can bring to the life of the parish. It will be important to ensure that the Catholic community will have equality of access to patronage of new schools and that Catholic schools have the right to express their identity in admissions' policies, in the employment of staff and in their Religious Education programmes.

Chapter 3   Catholic Voluntary Secondary Education

3.1 The Census Report for 1871 informs us of the existence of 587 'superior' or secondary schools in Ireland with a total attendance of 24,710 pupils. As the ratio of schools to pupils suggests, many of these schools accommodated very small numbers of pupils. The Census Report describes 'superior' schools as providing 'intermediate' education which implied the inclusion of a foreign language on the curriculum. Intermediate education providers included diocesan colleges (1), schools founded by religious congregations, schools under private management and endowed schools. The Protestant school community benefited from royal endowments going back to the sixteenth and seventeenth centuries which were available to royal schools, Erasmus Smith schools and grammar schools. Catholic secondary schools depended on very small fees – or no fees in the case of many of the schools run by religious congregations – with the result that teaching facilities and remuneration for lay teachers were most inadequate.

3.2 The establishment of the Queen's colleges for third level education raised awareness of the lack of any planned provision for intermediate or second level education. The report of the Kildare Commission in 1858 raised fears among the Catholic bishops because it recommended the type of 'mixed system' for secondary education which had already provoked such a high degree of controversy in regard to the national schools and the Queen's Colleges. Cardinal Cullen who was now the leader of Catholic opinion in the country wanted Government aid for denominational secondary schools, without Government control. During the twenty year period between the publication of the Kildare Commission Report and the Intermediate Education Act, much debate took place as to how the state might provide financial support for secondary education in Ireland without seeming to assist denominational schools from public funds. The solution that emerged was the use of income (c. £32,000 annual interest) from one million pounds of funds administered by the Commissioners of Church Temporalities in Ireland under the Irish Church Act 1869 (2).

The Intermediate Education (Ireland) Act 1878

3.3 The Intermediate Education Bill which passed through parliament without any difficulty became law in August 1878. The main provisions of the Act were

- the establishment of an Intermediate Education Board for Ireland comprising seven unpaid commissioners
- the Board would institute and administer a system of public examinations in secular subjects and provide for the payment of prizes and exhibitions and issuing of certificates to students
- the Board would also make payments of fees to school managers who fulfilled the Board's regulations, on the basis of results achieved by students
- there would be no examination in any subject that involved religious instruction nor would there be any payment in respect thereof
- the right of parents to withdraw their children from religious instruction if they so wished (3).

3.4 While the Act gave no direct support to denominational education, once schools fulfilled the examination requirements they were free to manage their own affairs. In reality, this

meant that all of the Catholic secondary schools that were in existence before the Act could continue as before in regard to religious instruction and ethos. A further positive aspect from the perspective of Catholic schools was that they could now compete for prizes and exhibitions with schools of other denominations on an equal footing. In the utilitarian climate that existed in nineteenth century England the concept of 'payment by results' had a common sense appeal to parliamentarians who believed in value for money (4). The 'payment by results' policy had been in operation in the Irish National Education system since 1872 and whatever reservations managers of Catholic secondary schools may have had about this policy they saw it as a fair and equitable means of disbursing the funds that were now available.

Intermediate Education: 1878 – 1921

3.5 The Intermediate Education Act had many shortcomings. If schools were to acquire a modicum of revenue they had to produce the necessary results. This led to a strong emphasis on memory work, cramming and unhealthy competition between schools. Weaker pupils suffered because they were either not accepted into schools or, if they were, they were not allowed to sit the examinations. The Act made no provision for inspection of schools or facilities and no minimum standards were set regarding the professional qualifications of teachers.

3.6 The ban on Catholics attending Trinity College and the negative view of the Queen's colleges communicated by the Catholic bishops meant that by 1905 only 11.5% of male teachers and 8% of female teachers in Catholic secondary schools had degree qualifications. Lay teachers had no contract, no fixity of tenure and no specific salary scale. These were matters which the Association of Secondary Teachers, Ireland, founded in 1909, set out to address (5).

3.7 Most of the shortcomings associated with the Intermediate Education Act arose from the insufficient funds at the disposal of the Intermediate Board. Fluctuations in interest rates had the effect, at times, of reducing the revenue accruing to schools. An effort was made to augment the funds available to the Intermediate Board by the Local Taxation (Customs and Excise) Act 1890. The funds raised through this source (known as 'whiskey money') also fluctuated which created significant problems annually for the Intermediate Board in balancing the books (6).

3.8 The Intermediate Education (Ireland) Amendment Act of 1900 introduced for the first time the concept of capitation fees and sough to move away from 'the payment by results' system. This initiative was linked to the establishment of an inspectorate for secondary schools. Due to various difficulties surrounding the issue, the inspectorate was not introduced until 1908 and payment by results continued except in the case of pupils in the younger age group. The Intermediate Education Act of 1913 empowered the Board to pay a grant to schools for pupils between the ages of twelve and fourteen which substituted for funds lost to schools due to the abolition of the Preparatory Grade examinations. A further Intermediate Education (Ireland) Act in 1914 introduced a Teachers' Salaries Grant and also provided for the setting up of a registration council which came into effect in July 1918 (7).

3.9 In spite of reports from various commissions, little was achieved in the first two decades of the twentieth century in terms of reforming secondary education in Ireland. The Intermediate Board in its report for the year 1919 paints a rather dismal picture:

"Matters have been getting steadily worse in the schools, and a complete collapse seems to be not far distant" (8).

This was the secondary education system which Saorstát Éireann would inherit within a couple of years.

Secondary Education in the New State, 1922 – 1967

3.10 Administration of education was assumed by the new state in February, 1922. The Intermediate Education Board was dissolved in June 1923 and provision for Secondary Education was undertaken by the new Department of Education which was established in 1924. The Department's report for 1924 – 25 indicates the limit of state influence on secondary education and implicitly acknowledges the private, denominational nature of the schools:

"The state at present inspects these schools regularly and exercises a certain amount of supervision through its powers to make grants to schools as a result of these inspections but it neither founds secondary schools, nor finances the building of them . . ." (9).

3.11 In June 1924, the Intermediate Education (Amendment) Act introduced a new system of grant-payments to schools. Henceforward, grants would not be paid on the basis of results but on a capitation basis for pupils following approved courses and making a minimum of 130 attendances per year. Schools would pay a minimum basic salary to teachers and the state would pay the incremental portion. A new programme of studies was introduced and the three grades of results examinations were replaced by the Intermediate and Leaving Certificate Examinations.

3.12 While many political statements in the 1920s contained expressions about social concern and equality of opportunity, access to education beyond the primary stage, outside urban areas, remained at about 8% of the primary school cohort. The most significant education initiative undertaken by the Cumann na nGael government was the passing of the Vocational Education Act in 1930. There appears to have been a tacit agreement between the bishops and the Minister that the vocational schools would not impinge upon the field covered by the denominationally run secondary schools (10).

3.13 Apart from a strong emphasis on the place of the Irish language and moving from flexible to prescribed courses of study, few initiatives of note in regard to secondary education were taken by successive Fianna Fail governments between 1932 and 1949. Recommendations about raising the compulsory school leaving age, with free education provided to the compulsory school leaving age, together with state loans for new schools and extensions were all shelved due to ongoing economic difficulties. However, in spite of the inadequacy or lack of public initiatives, the number of secondary schools increased, between 1931 and 1961, from 300 to 526, with the number of pupils increasing from 22,994 to 76,843 over the same period (11). An appraisal of the secondary school curriculum was undertaken by the Council of Education in 1954 and, when its deliberations were eventually published in 1962, the prevailing curriculum was identified as being of 'the grammar school type, synonymous with general and humanist education'. A scheme of 'free secondary education for all' was regarded as 'untenable' and 'utopian' (12). The Council of Education report

which was generally regarded as disappointing did not recommend any significant restructuring of the Irish post-primary system (13).

3.14 In the interim between the report issued by Council of Education and the *Investment in Education Report*, the Minister for Education, Mr. Paddy Hillery, announced that the government was to undertake the building of a new type of post-primary schools termed 'Comprehensive Schools' in areas where there were insufficient post-primary schools. The first three of these state-run schools opened in 1966. Mr. George Colley who was now Minister for Education indicated that he did not anticipate that there would be a large number of Comprehensive Schools, but he hoped that there would be a pooling of resources at local level between secondary and vocational schools. A further innovation of this period was the introduction of capital funding of the order of 70 per cent on the part of the government for secondary school building projects. The schools were responsible for the remaining 30 per cent of the costs.

3.15 If the Council of Education report made little impact on the educational scene, the same could not be said of the *Investment in Education Report* which was published in 1966. This was a major analysis of the education system initiated by the Department of Education with the assistance of the OECD. Among the findings which were to become very relevant to second level education provision in the near future were the following:

- it was estimated that c. 1/3 of the c. 55,000 pupils who attended primary schools left full-time education without completing the Primary School Certificate
- of those pupils who went on to second level education, 36% left without sitting a junior post-primary certificate
- of those pupils who continued to senior cycle, c. 2,000 dropped out without sitting the Leaving Certificate
- of the c. 10,000 pupils who sat the Leaving Certificate only 2,000 entered university
- 64% of secondary schools had less than 150 pupils
- small schools experienced difficulties in providing a broad curriculum (14).

3.16 Re-acting to the Report findings, Mr. George Colley, Minister for Education (1965-66), identified three important areas of policy on second level education:

- raising the school leaving age to 15 by 1970
- provision of up to three years second level education for all
- provision of equality of educational opportunity to all (15).

It was not Mr. Colley, however, but his successor as Minister for Education, Mr. Donogh O'Malley, who would set about implementing these policies through the historic initiative of the free education scheme.

The Free Education Scheme and its aftermath

3.17 The announcement by Mr. O'Malley in September, 1966, that free education up to the completion of the Intermediate Certificate course would be available from September of the following year 'in the Comprehensive and Vocational schools and in the general run of Secondary schools' caused consternation not only to the parties involved in second level education and the opposition political parties but also to his fellow government ministers. While he appears to have had a clearance from the Taoiseach of the day, Mr. Sean Lemass, to

make the announcement, Mr. O'Malley had engaged in no prior discussion with representatives of school management on issues relevant to them or with the Department of Finance with regard to the cost of the scheme (16).

3.18 Notwithstanding their dissatisfaction with the Minister's cavalier attitude towards them, spokespersons for Catholic managerial bodies welcomed the principle of free education and the extension of educational opportunity. In spite of assurances from the Department of Education, however, secondary school authorities feared that acceptance of the free education scheme implied at least a partial abdication on their part of the private nature of their schools. In the relatively short period within which they had to decide whether or not to opt for the Free Education Scheme, managers sought guidance from their associations. The Catholic Hierarchy left it to school authorities to decide for themselves but the Catholic Managerial Committee, while recognising some serious defects in the Scheme and stating that the final decision rested with the appropriate authority in each school, recommended acceptance of the Free Education Scheme to all the schools in their association (17).

3.19 One of the factors which left many schools feeling they had no option but to enter the O'Malley scheme was the linking of building grants to acceptance of the scheme. The degree of participation in the scheme became apparent in September 1967 when the published figures showed that 92% of day pupils were now availing of free education. As enrolments for the 1967 school year greatly exceeded expectations, provision of classroom space became a most urgent matter. Prefabricated classrooms were quickly provided where the need was greatest. The extent to which the Minister became involved in arranging capital for school extensions and new buildings meant that he acquired increasing control over education provision at second level - expanding or rationalising as he saw fit. Increasing involvement on the part of the Department of Education in the affairs of second level education would become the norm in the coming years (18).

3.20 An aspect of the *Investment in Education Report* which remained to be addressed was the difficulties experienced by small secondary schools in providing a broad curriculum. To resolve this problem and also to provide second level education in new urban areas, the Community school concept was announced in October 1970. The Community school would be a development on the Comprehensive school model which was already in existence in a number of locations. The stated or implied rationale for the Community school concept included the following elements:

- free schooling of a comprehensive type to all in the catchment area
- a further step towards equality of educational opportunity
- the reduction of overlapping of resources through the establishment of a single post-primary school in small towns to replace the two or three existing schools
- the Community school would be governed by a Board of Management representative of Secondary and Vocational education and various other interests
- capital and current expenditure would be borne by the state
- reciprocal arrangements between the school and the local community (19).

3.21 When the first Community schools came into being in 1972, they were multi-denominational in nature, having as joint patrons the local Vocational Educational Committee and various religious bodies (20). Regarding religious worship and instruction, the Deed of Trust for Community schools states:

"The religious worship attended by any pupil at the school and the religious instruction given to any pupil shall be in accordance with the rites, practice and teaching of the religious denomination to which the pupil belongs" (21).

3.22 Where religious congregations became joint trustees of Community schools, the Deed of Trust entitled them to make a significant contribution to the characteristic spirit of these schools and to draw from the rich tradition built over the past two centuries in Catholic voluntary secondary schools. However, the gradual growth in Community schools since 1972 and the increasing involvement of the VECs since 1980 in establishing Community colleges have contributed to a decline in the number of Catholic voluntary schools, many of which have been absorbed into the Community school or Community college models.

Boards of Management

3.23 Boards of Management were envisaged for Comprehensive and Community schools from their inception and were introduced to primary schools in 1975. It was inevitable, therefore, that the question of Boards of Management for voluntary secondary schools would arise not only because of their existence in other sectors but also because of the emphasis of Vatican 11 on greater involvement of the laity in the life of the Church. That the leaders of the ASTI were reflecting on the issue in the early seventies is evident from their invitation to the CMCSS to contribute an article on Boards of Management for the Autumn 1974 edition of *The Secondary Teacher.* The author of the article represented the position of the CMCSS as follows:

"Firstly the vast majority of Catholic secondary schools in Ireland are most anxious to broaden the base of management. Secondly, they are anxious that the philosophy, character and ethos of the Catholic school will be strengthened and not weakened by such a broadening of management". (22)

3.24 The ASTI set up a sub-committee to examine the issue of Boards of Management in April 1975 but initial negotiations with the representatives of the religious trustees of secondary schools broke down over differences about the composition of Boards. The matter was left in abeyance until 1981 when it became incorporated in negotiations involving redundancy and home-school links. After protracted negotiations, agreement was reached on a package which included (a) a redeployment scheme for teachers in Catholic voluntary secondary schools, (b) home/school links involving parent-teacher meetings within the school day, and (c) Articles of Management for Catholic voluntary secondary schools. This package was accepted by ASTI members by ballot in September 1985. Boards of Management for voluntary secondary began to be established soon afterwards and the first major task a number of these Boards had to undertake was the appointment of lay principals for the school year commencing August 1986.

3.25 The Articles of Management which set out the composition, role and functions of the Board of Management are given statutory recognition in section 2 of the **Education Act 1998**. Along with bringing greater clarity to the functions of the Board of Management, the rights of religious trustees in regard to the 'character spirit' of the school are now enshrined in civil law. The interface between the patrons/trustees and the Board of Management will be discussed in detail in coming chapters in respect of the Articles of Management, the **Education Act 1998** and other relevant legislation.

General Management Issues

3.26 The introduction of Community schools in the 1970s and the setting up of Boards of Management in voluntary secondary schools in the 1980s brought a focus to bear on the different roles played by trustees and managers in the running of schools. Up to the 1960s no clear distinction seems to have been made between management and trustee issues. Managers and Headmasters/Principals were either members of religious congregations or diocesan clergy who were appointed to their positions by higher superiors or bishops.

3.27 The need to have a Catholic voice in regard to management issues was recognised at the time of the enacting the Intermediate Education Act (1878) when certain headmasters decided to form an association, as headmasters and headmistresses of Protestant schools had already done, in order to protect and advance their interests. At a meeting in October 1878 in Maynooth College, attended by 44 headmasters and some bishops, the Catholic Headmasters Association (CHA) was founded. While the new CHA included headmasters from schools run by religious congregations of priests as well as diocesan schools, it did not include representatives from schools run by religious brothers or sisters (23).

3.28 The combination of headmasters of diocesan colleges and colleges run by congregations of priests, supported by the bishops, meant that the CHA was a strong, unified force when the ASTI was founded in 1909. Much of the CHA's energy for many years to come would be devoted to negotiating with the ASTI about salaries, teaching contracts and pension entitlements. In the 1960s the congregations of religious brothers were involved with the CHA, the Conference of Convent Secondary Schools (CCSS) and the ISA, in establishing the Joint Managerial Body of Secondary Schools (JMB) which became a unified negotiating body for all secondary schools, both Catholic and Protestant.

3.29 The CCSS which represented secondary schools run by religious sisters was formally established in 1929 and 'aimed to watch over Catholic interests in all matters' concerning their schools (24). The CCSS liaised closely with the CHA on managerial issues but adopted a more independent line on educational issues, particularly on the type of curriculum they deemed appropriate for their pupils' needs. When a Federation of Catholic Voluntary Secondary Schools was proposed by the CHA in 1959 the CCSS proposed a less formal Joint Committee of Catholic Managers instead. The CCSS view prevailed and a committee which included representation from the Federation of Catholic Lay Secondary Schools (FCLS) was established. The FCLS was founded in 1952 to represent the interests of owners, managers and principals of lay Catholic secondary schools. In 1965 the Teaching Brothers Association (TBA) was established and received formal recognition from the Department of Education in 1967s. What distinguished the TBA from the CHA and the CCSS was the fact that the executive of the TBA included the provincials of congregations who dealt with policy or trustee issues as well as management issues. The CHA and CCSS confined themselves to management issues while policy decisions were taken by the bishops and by the major religious superiors in the case of the religious sisters and priests.

3.30 The many issues surrounding the introduction of the Free Education Scheme brought home to the different managerial associations that the manner in which the Catholic Managerial Committee was structured did not adequately meet their needs. After consultation with the bishops and the Conference of Major Religious Superiors (CMRS), a special seven member committee comprising two representatives from the CHA, CCSS and TBA and one

representative from the FCLS was established in June 1967. With the support of the bishops and the CMRS, the special committee arrived at the following decisions:

- a full time secretariat would be funded by secondary schools
- a representative Council of Management of Catholic Secondary Schools (CMCSS) would be established
- legal advice would be sought to draw up a constitution for the CMCSS.

3.31 The aim of the CMCSS was 'to promote unity among Catholic managerial associations'. One representative of the bishops and one representative from the CMRS would also be members of the CMCSS. At the outset the bishops stated that there should be 'a clear distinction between matters of policy which should be reserved to the bishops and other matters'. By 1971 a full time secretariat which served both the needs of the JMB and the CMCSS was established (25).

3.32 The distinction between 'matters of policy' and 'other matters' was not always clear and at times there were tensions not only within the CMCSS but also between the CMCSS the Bishops Education Commission and the CMRS Education Commission. However, in spite of different perceptions on the issues facing them, the various associations within the CMCSS worked with the CMRS and the bishops in the 1980s to carry out a major restructuring of the way the CMCSS was constituted (26). It was agreed that representation on the CMCSS would no longer come from the existing managerial associations but rather from new Association of Management of Catholic Secondary Schools (AMCSS) regions, based on geographical considerations. The AMCSS region comprised chairpersons or single managers in the region together with the principals of the schools. Each region would nominate a chairperson/manager and a principal to represent it on the CMCSS. This new structure came in to effect in 1987 and while initially the CMCSS comprised priests and religious, for the most part, its members are now predominantly lay people. The CMCSS still includes a representative of the Episcopal Commission and a representative of CORI and concentrates on matters which are specific to Catholic secondary schools. General managerial and educational issues involving the Department of Education, ASTI or other bodies are left to the JMB which comprises the CMCSS, without the CORI and Episcopal representatives, but with three representatives from the Secondary Education Committee (SEC) which represents the four main Protestant Church schools.

Patronage/Trusteeship and Governance

3.33 As 'governance' and 'management' are often used as interchangeable terms with approximately the same meaning, it is important, for the sake of clarity, to define what these terms are intended to mean in today's Catholic schools' context. Bearing in mind both the provisions of Canon Law and Civil Law, governance relates to the functions of patrons or trustees as the final decision making authority of the owners or holders of the title deeds of the property or enterprise. Patrons and trustees have both a moral and legal responsibility to maintain schools in accordance with a particular ethos or founding intention. In the case of diocesan Catholic secondary schools, governance or patronage of these schools is exercised by the bishop of the diocese in conjunction with diocesan trust boards where such exist. The higher superiors of religious congregations, as trustees of the school property and education enterprise, exercise governance in schools owned by congregations where Education Trust Companies have not been established. Where Education Trust Companies exist, governance is exercised by the Board of Directors appointed by the members of the Company. The Board

of Directors may delegate many of their functions to personnel working from an education office established specifically for the purpose of exercising governance. In lay owned Catholic secondary schools the function of governance is carried out by the owners or representatives of the owners.

3.34 Management is taken to mean the day to day operation of an organization and in the context of Catholic secondary schools refers to the role and functions of the Board of Management/Manager and Principal of each school. It is important to recognise that along with the ex officio role of the Principal as educational leader in the school, s/he is also the chief executive appointed by the Board of Management/Manager to administer the temporalities of the school plant.

3.35 Prior to the setting up of Education Trust companies on the part of a number of religious congregations, governance of all religious owned schools was exercised by the higher superiors for the time being who acted as trustees of the school property and educational enterprise. They appointed members of the congregation as managers and principals of the secondary schools. Sometimes the same person filled both roles. When Boards of Management were introduced, the religious trustees continued to exercise their right of governance by formally appointing the individual Board members including the teacher and parent nominees as well as their own Trustee nominees, one of whom would be chairperson. With the passage of time, some congregations set up education offices and delegated many of the functions of governance to these offices.

3.36 As the religious congregations who had significant involvement with schools looked to the future, it became apparent to them that new structures were needed. Apart from the decline in vocations, a view was developing within CORI that lay people should be involved in trusteeship as they had been in Boards of Management since the late 1980s:

"Even if Congregations were not experiencing a decline in membership, there would be an argument for considering new forms of trusteeship of schools. There is no solid basis for believing that the continuation of the Catholic school depends on direct involvement of religious. The provision of the Catholic school is in fact the responsibility of the whole Catholic community"(27).

3.37 In line with this thinking, many religious congregations set about the task of introducing new forms of trusteeship. Trust bodies composed of both religious and lay personnel were established in order to participate in the Catholic education mission of the Church in accordance with the founding intention and charisms of the religious congregations they would replace.

Education Trust Companies

3.38 Before reaching a definitive position on how religious owned schools could continue into the future as Catholic schools, religious congregations engaged in a lengthy period of consultation and discernment with the various stakeholders in their schools. The period of discernment included identifying the core values or key elements which had become part of their schools' tradition since their foundation. These core values or key elements would become the charters of the new Trust foundations. Eventually, the deliberations of some religious congregations who wished to establish new forms of trusteeship for their schools involved the Irish Episcopal Conference and CORI as well as the Congregations for

Consecrated Life and Catholic Education at the Holy See. Inter-Conference Workshops took place in late 2005 and early 2006 to examine what canonical mechanisms could ensure the provision of Catholic schools into the future in Ireland (28). Having looked at the various options open to them, overwhelming support emerged from these workshops for the establishment of ecclesiastical Public Juridic Persons (PJPs) to act as Trust bodies for emerging new forms of trusteeship. A PJP is a legal entity under Canon Law that allows members of Christ's faithful – for example dioceses, parishes and religious institutes – to carry out apostolic works in the name of the Catholic Church. The scenario where some religious institutes wished to divest themselves of trusteeship and governance of schools by setting up new Trusts required the recognition of these new entities as PJPs by the Irish Episcopal Conference.

3.39 Those new Trusts who submitted Statutes of Foundation to the Irish Episcopal Conference in order to satisfy Canon Law requirements regarding PJPs also submitted a Memorandum and Articles of Association to the Companies Registration Office in accordance with the Companies Acts 1963 to 2009. Thus both Canon Law and Civil Law requirements have been met. Other Trusts, because they continue to have close links with their congregations, have not become PJPs but are registered as companies. The Memorandum of Association identifies the charitable purposes of the Trust which entitle the Trust, once it has received its Certificate of Incorporation, to various tax exemptions and to apply for "Eligible Charity" status. Charitable trusts differ from other kinds of trusts in so far as those who might benefit from trusts considered to be legally charitable do not have a right to enforce such trusts (29). Education trusts are eligible for charitable status as they have to do with 'public benefit'. The Charities Act 2009 states that a 'purpose shall not be a charitable purpose unless it is of public benefit' and identifies each of the following as a charitable purpose:

- the prevention or relief of poverty or economic hardship
- the advancement of education
- the advancement of religion
- any other purpose that is of benefit to the community.

3.40 The Charities Act 2009 – not in force yet – sets out a new Charity law regime and knowledge of and compliance with the Act's provisions are recommended for directors of Education Trusts and indeed for all involved in the patronage or trusteeship of schools.

3.41 In their Memorandum and Articles of Association, each of the Education Trusts is identified as a 'Company Limited by Guarantee and Not Having a Share Capital'. To date, the following Education Trusts have been established: Loreto Education Trust for Loreto secondary and primary schools; Des Places Education Association for Holy Ghost schools; CEIST for secondary schools formerly run by five separate religious institutes; Edmund Rice Schools Trust for primary and secondary schools formerly run by the Christian Brothers; Le Chéile for secondary schools formerly under the trusteeship of 13 different congregations; the Presentation Brothers Schools Trust for schools formerly under the trusteeship of the Presentation Brothers. Trust Companies have also been established for certain fee-paying junior and senior schools and for single voluntary secondary schools.

Trustee Matters at National Level

3.42 As already indicated, no clear distinction had been made between management and trustee issues until the 1960s because, apart from the VEC sector, there had been little Government involvement in second level education. The introduction of Comprehensive Schools and Free Education changed the educational landscape radically and forced the Catholic providers of voluntary secondary education to take stock of their position. The Conference of Major Religious Superiors (CMRS) had come into existence in 1960 and represented religious congregations that owned primary, secondary and special schools as well as hospitals, hospices, homes and orphanages. Gradually the congregations involved in education came to the realisation that it would be to their benefit to establish their own commission within the CMRS. Thus the CMRS Education Commission came into being in 1966. The arrival of this new body on the education scene may have been influenced by the bishops who, on returning from Vatican 11, set up a number of Episcopal Commissions including one for primary education and one for secondary education. The latter became known as the Episcopal Commission on Post-Primary Education and was also established in 1966. Within a year the Episcopal Commission on Post-Primary Education and the CMRS Education Commission formed a Joint Education Commission.

3.43 The announcement of the Community school concept in 1970 followed by the opening of the first Community schools in the early 1970s led to the setting up a working party by the Joint Education Committee to examine the future role of religious in education. When the working party issued the Future Involvement of Religious in Education Report (FIRE) in February 1973, there appeared to be a belief that the development of Community schools would lead a significant diminution in the number of voluntary secondary schools. While the recommendations of the **FIRE Report** were not implemented for the most part, the manner in which the working party went about its business brought home to leaders of religious congregations and bishops that they needed to engage in strategic planning which was already a well established practice in the business world. Within a year of the private circulation of the **FIRE Report**, there was a change of emphasis in an internal CMRS report entitled **Focus for Action** (1974). Although the Community schools were not identified by name, the report refers to the challenge to religious 'to work in other kinds of schools where their witness is of great importance' (30). Later in 1974, the bishops' **Mulrany Report** created a further sense of urgency about the need to plan for the future development of Catholic education. The CMRS and bishops' reports led to a willingness on the part of some religious congregations to become involved in Community schools both in a teaching and joint trusteeship capacity.

3.44 During the 1980s much of the CMRS focus was on the setting up of Boards of Management for voluntary secondary schools and providing Boards with the necessary pre-service training. By the end of the decade, congregations that had significant involvement with schools began to establish education offices and support networks for Boards of Management, principals and other key school personnel. Having been to the forefront in introducing Boards of Management to the voluntary secondary sector in the 1980s, the Conference of Religious of Ireland (CORI - successor to CMRS), and trustees generally, to their dismay, found that the Green Paper, **Education for a Changing World** (1992), displayed little understanding of the role of patrons and trustees. Their dissatisfaction is recognised in the **Report on the National Education Convention** (1994) which refers to 'the neglect or inadequate understanding, which was implied by the Green Paper, of the rights

and roles of patron and trustee' (p.24). Some of their concerns were alleviated with the publication of the White Paper, **Charting our Education Future** (1995), which set out the basis for the Education Bill (1997) and the **Education Act (1998)**.

3.45 Even before the publication of the Education Bill in 1997, the Education Commission of CORI published a handbook on **The Trusteeship of Catholic Voluntary Secondary Schools** in January 1996. This handbook which was the fruit of seminars, workshops and lengthy discussion within CORI as well as consultation with outside experts continues to be an invaluable reference source for trustees and personnel in education offices. The extent to which the Education Commission was planning for the future is reflected in the section in the handbook "Exploring New Forms of Trusteeship". A shorter handbook, **Guidelines on the role of Trustees in Catholic Voluntary Secondary Schools**, was published by the Education Commission of CORI in December 2005. It was not intended that this handbook would supersede the previous one but would complement it by pointing to the implications for trustees of aspects of legislation enacted since 1998. The issue of new forms of trusteeship is revisited and it is obvious that decisions have been taken by some congregations: "Some groups of congregations have chosen to form alliances, others have decided to form structures alone . . ." (p.33).

3.46 In the context of new forms of trusteeship, the CORI publication of 2005 refers to the need for a new association for trustees that would act 'as a collective voice in consultations and negotiations and provide services to the new trust structures'. This new association, **Association of Trustees of Catholic Schools** (ATCS), came into being in 2009 and, in its constitution, sets out its main object as follows:

" . . . to address the concerns of trustees/patrons and to promote best operational practice in the exercise of trusteeship/patronage of schools on behalf of the Catholic Church".

3.47 As seen in the previous chapter, the new association represented Catholic patrons and trustees at the Forum on Patronage and Pluralism in the Primary Sector.

The Future of Catholic Voluntary Secondary Schools

3.48 While the diminution in the number of voluntary schools since the early 1970s has not been as acute as some people feared at that time, there has been, nonetheless, a steady decline in both school and pupil numbers. In 1989/90 there were 493 voluntary secondary schools with 213,788 pupils on roll but by 2009/10 the number of voluntary schools had decreased to 384 with 185,006 pupils on roll. Those who desire a secure future for voluntary secondary schools must be concerned by the fact that no green-field Catholic secondary has been established since 1992 (31).

3.49 A major factor in the decline in voluntary secondary school numbers is the inequality of funding across the second level education sector. Catholic non-fee paying secondary schools have to depend on voluntary contributions from parents to cover many of the essential services that are required for the efficient running of the school and maintenance of the school plant. Given the history of voluntary secondary schools and their contribution to building up this state, it has to be regarded as a matter of grave injustice that over 30% on average of their annual expenditure has to be raised locally. Furthermore, the patronage/trustee structures which have been put in place to support Catholic schools both at primary and secondary level receive no state funding.

3.50 In a document entitled **New Arrangements for Patronage of New Schools – Second Level**, dated June 2011, the Department of Education and Skills sets out the criteria for establishing new second level schools. Most new schools must have the capacity to operate in the size range of 800 to 1,000 pupils and be co-educational. Plurality and diversity will be regarded as relevant criteria in determining the patronage of a school in a particular area where there is demand for diversity. Patron or trustee bodies who declare an interest in a new school will be asked to provide lists of parents who support their particular application.

3.51 There is nothing in the document to suggest if an application from a Patron/Trustee from the Catholic voluntary secondary sector is successful that the school will receive equality of funding. Clearly the ATCS have to continue to pursue this issue and examine the implications of the new arrangements set out in the aforementioned Department of Education and Skills document. Where the Catholic community in a particular area form a significant majority, they ought to be as entitled as any other interest group to have the secondary school of their choice. It is time to arrest the decline in the number of voluntary secondary schools.

PART TWO

Chapter 4 General Functions of Patrons/Trustees of Catholic Schools

4.1 The link between governance and trusteeship or patronage in the context of Catholic second level education received some general treatment in the previous chapter. Here, it is proposed to treat the different law regimes which, along with conferring rights, also impose duties on patrons and trustees. As **Canon Law**, the **Law of Trusts** and the **Education Act 1998** do not differentiate between governance of primary and secondary schools, the functions set out underneath and the grounds on which these functions are based apply to governance of Catholic schools at both levels. Functions are taken to mean both powers and duties. While Canon Law has a long history of co-existence with civil law, it may be helpful for those charged with the governance of Catholic schools to treat separately the relevant elements of the different law regimes.

4.2 We have seen the stories behind Catholic primary and secondary schools in this country and the different routes they have taken to arrive at the contemporary situation. The primary system which was established as a multi-denominational system had become *de facto* denominational by the foundation of the state with over 90% of the schools under Catholic patronage. When state aid was eventually provided for secondary education in 1878 there were no strings attached with regard to religious ethos or identity. This situation continued until the late 1960s when free education and the Community school concept began to challenge the monopoly of voluntary secondary schools. Despite the steady decline in Catholic voluntary secondary school numbers over the past 40 years as evidenced by the fact that they now comprise only a little over 50% of the total number of second level schools, the Catholic Church in Ireland continues to support the rights of Catholic parents to send their children to schools that have a distinctive Catholic ethos.

4.3 Even if the vast majority of pupils attending Community schools or colleges were Catholic, these schools do not meet Canon Law requirements to be designated as Catholic schools. Drawing attention to this is not intended to denigrate in any way the excellent work in religious instruction or faith formation being done by committed teachers in these schools. However, notwithstanding the esteem in which Community schools and colleges are held, there are still grounds for assuming that a significant proportion of Irish parents will continue to send their children to traditional Catholic voluntary schools where they have this option available to them. The portrait of the Catholic school which has been painted in chapter 1 is derived from various Church documents without specific reference to the **Code of Canon Law** but, in order to merit the designation *Catholic,* Canon Law requires that schools must operate under the jurisdiction of an ecclesiastical Public Juridic Person (PJP) or be acknowledged as Catholic by the relevant ecclesiastical authority (1).

Canon Law and the Catholic school

4.4 Before commenting on the function of PJPs in the life of the Church, it may be useful to refer briefly to the nature of Canon Law itself. Canon Law, in this context, denotes the corpus of law that is unique to the Catholic Church and which was revised in 1983. The new code consists of 1,752 canons. Canon Law is founded on Christ's teachings and is seen as a means of guiding and serving Christ's faithful as well as ordering and regulating the administration of the temporal goods and possessions of the Church. While the norms of Canon Law are of importance to the life and work of the Catholic Church, they do not oblige the state or other bodies with which the Church may have to interact.

4.5 PJPs are Church entities (aggregates of persons or things) established, under Canon Law (2) by the Apostolic See in the case of international bodies, by National Conferences of Bishops in the case of national bodies and by individual bishops in the case of bodies within their dioceses. When establishing a PJP the establishing authority can set out the channels of accountability that are deemed appropriate but this does not imply that the establishing authority is responsible for the mistakes or poor governance of a PJP (3). Canon Law is first and foremost concerned with Christ's mission and Catholic schools are seen as participating in this mission. Canons 793 – 806 deal with Catholic education and emphasise the rights and duties of Catholic parents to choose those means and institutes which can best promote the Catholic education of their children. The following are some of the key canons on Catholic schools:

- A Catholic school is understood to be one which is under the control of the competent ecclesiastical authority or of a public ecclesiastical juridical person, or one which in a written document is acknowledged as Catholic by the ecclesiastical authority. (Canon 803~1)
- Even if it is in fact Catholic, no school is to bear the name *Catholic school* without the consent of the competent ecclesiastical authority. (Canon 803~3)
- The diocesan bishop has the right to watch over and visit the Catholic schools in his territory, even those which members of religious institutes have founded or direct. He may also issue prescripts which pertain to the general regulation of Catholic schools.(Canon 806~1)
- Directors of Catholic schools are to take care under the watchfulness of the local ordinary that the instruction which is given in them is at least as academically distinguished as that in the other schools in the area. (Canon 806~2))

4.6 The diocese, parish, religious institute or ecclesiastically recognised trust is the PJP within which the Catholic school operates. A PJP has perpetual status unless terminated by the Church authority that established it. As well as having a spiritual dimension, the PJP entity includes ownership of temporal goods - Church and school buildings, land, indeed anything of monetary value. The functions of a 'public juridic person' are carried out by 'physical persons' who are called canonical administrators (4). Ownership of temporal goods resides in the PJP and not in the 'physical persons' or canonical administrators who are responsible for the governance of both the missionary activity of the PJP as well as the temporalities that support this missionary activity. From a Canon Law perspective, the canonical administrators of Catholic schools are bishops in schools established by the diocese, congregation leaders in schools established by religious institutes and the Members and Board of Directors in schools under the jurisdiction of trust foundations. Canonical administrators may delegate executive power of governance as set out in the following canons:

- Delegation of power . . . is understood to include everything necessary for the exercise of that power (Canon 138)
- Executive power delegated to several people is presumed to be delegated to them together (Canon 140~ B3)
- Delegated power lapses: on the completion of the mandate; … on its revocation by the person delegating . . . It does not lapse on the expiry of the authority of the person delegating, unless this appears in clauses attached to it.(Canon 142~ B1)

4.7 Canonical administrators or those to whom executive power of governance has been entrusted fulfil their duties in the Church's name and ought, therefore, to have an attitude towards temporal goods which sees them as resources for the Church's apostolate rather than for generating profit. In the section of the **Code of Canon Law** entitled **The Administration of Goods**, various duties that ought to be undertaken by administrators are listed. These include:

- preparing an accurate inventory of property and goods (Canon 1283)
- fulfilling functions with the diligence of a good householder – exercising vigilance so that property and goods are not lost or damaged, taking out insurance policies, ensuring that civilly valid methods are used to take care of ecclesiastical goods, organising correctly and protecting in a suitable and proper archive the documents and records on which property rights are based, keeping well organised books of receipts and expenditures, observing the prescripts of both canon and civil law, preparing budgets of incomes and expenditures each year (Canon 1284)
- observing meticulously the civil laws in the employment of labour and paying a just and decent wage to employees (Canon 1286)
- presenting annual reports to the appropriate authority (Canon 1287)

4.8 While the terms 'trustee' or 'trusteeship' are not used in Canon Law, there is obviously a significant overlap between the duties of canonical administrators in Canon Law and those of trustees of Catholic schools in civil law. Indeed, in the Statutes of one of the new trust foundations established as a PJP by the Conference of Bishops of Ireland, the (canonical) Administrators are identified as 'the Members and Directors of the Company' (5) who are in turn identified as the Trustees in the Memorandum of Association (6).

Law of Trusts

4.9 As indicated in Canon 1284, the administrators of PJPs are obliged to have recourse to civil law in order to take care of ecclesiastical goods. Consequently, trusts have been established in dioceses, parishes and by religious institutes because trusts are recognised in civil law. The legal concepts of trust and equity are closely linked. Equity can be described as the branch of law which mitigates the harshness of a strict application of the common law in order to bring about a fair and equitable outcome. One of the most important creations of the rules of equity is the relationship which arises when a person called a trustee is obliged in equity to hold property for the benefit of another person or persons, called beneficiaries, so that the real benefits accrue to the beneficiaries or other objects of the trust and not to the trustees (7).

4.10 Because of the multi-faceted nature of trusts, it has been difficult to arrive at a definition of trust that encompasses the full scope of the concept. The following definition suggested by Keeton and Sheridan meets with the approval of some commentators:

"A trust is the relationship which arises wherever a person (called the trustee) is compelled in equity to hold property, whether real or personal, and whether by real or equitable title, for the benefit of some persons (of whom he may be one and who are termed beneficiaries) or for some object permitted by law, in such a way that the real benefit accrues not to the trustees, but to the beneficiaries or other objects of the trust" (8).

4.11 Along with the more general understanding of trusts 'for the benefit of persons', the above definition allows for trusts pertaining to 'some object permitted by law'. One of the objects permitted by law is 'the public benefit', be it the public in general or a significant section of the public. As indicated in the last chapter, trusts that are deemed to be in the public benefit may be registered as Charitable Trusts and Catholic schools qualify for this type of trust under the 'advancement of education' and 'advancement of religion' criteria. (9)

4.12 In civil law terms, the trustees of Catholic schools are those persons who are legally registered, from time to time, by the canonical administrators of PJPs as nominal owners or holders of the title deeds of the property and goods of the particular diocese, religious institute, parish or Education Trust for the purpose of the 'advancement of education' and/or the 'advancement of religion'. This purpose may or may not be stated on the title deed but when the trust is a registered charity the purpose of the trust may be inferred from the evidence of long practice. What the trustees and, by extension the religious entities, hold in trust is, first and foremost, the enterprise of Catholic education as understood and represented in official Church documents (Cf. Chapter 1) and in deeds, schedules, charters or educational philosophy statements based on the founding intention of individual schools or networks of schools. The real and personal property whether owned, leased, or administered by the religious entity is held in trust for the purpose of supporting the enterprise of Catholic education. For this reason, alienation of trust property is allowed under the Law of Trusts only if the proposed alienation is for the over-all benefit of the trust. There are also Canon Law regulations relating to the alienation of 'Church' property that trustees ought to bear in mind if such a course of action is being considered. Where alienation of property associated with a Charitable Trust is being considered, it is prudent to seek legal advice.

4.13 As a general principle, trustees are required to carry out their duties and obligations with a high degree of honesty and integrity (10). They must administer the trust in accordance with the terms laid down or inferred in the trust instrument which in the case of Catholic schools will have to do with the advancement of Catholic education. Trustees need to be conversant with the **Charities Act 2009**, particularly sections 46 to 54 of the Act. Section 46 has to do with regulation of references to charitable status through notices, advertising, promotion literature or any other published material. Sections 47 to 54 deal in a most comprehensive manner with duties such as:

- keeping proper books of account
- providing annual statements of accounts
- where a trust is incorporated, making annual returns under the Companies Acts
- having an annual audit or examination of accounts
- providing the Charities Regulatory Authority with information it may require
- preparing reports which the Authority shall make available for inspection by members of the public.

4.14 Hence, even before considering the implications of articles of management, the Education Act or other legislation, the **Code of Canon Law**, the **Law of Trusts** and the **Charities Act 2009** make significant demands on Trustees. However, while meeting these various legislative demands is very important, the moral imperative on trustees to articulate and promote the religious and education philosophy set out in the trust's schedules or charters is paramount.

Deeds, Schedules, Educational Philosophy Statements and Charters

4.15 In Chapter 2, reference was made to the **Deed of Variation** which supplements the leases of Catholic primary schools established before 1997 and is intended to apply to all Catholic primary schools established since 1997. The **Deed of Variation** contains a schedule which states:

"A Roman Catholic school (which is established in connection with the Minister) aims at promoting the full and harmonious development of all aspects of the person of the pupil: intellectual, physical, cultural, moral and spiritual, including a living relationship with God and with other people. The school models and promotes a philosophy of life inspired by belief in God and in the life, death and resurrection of Jesus Christ. The Catholic school provides religious education for the pupils in accordance with the doctrines, practices and traditions of the Roman Catholic Church and promotes the formation of the pupils in the Catholic Faith". (10)

4.16 This schedule which is displayed in a prominent place in each Catholic primary school is the fruit of agreement between the INTO, the CPSMA, the Bishops, the National Parents' Council and the Department of Education. The schedule must be included in the school's admission policy, in the Code of Behaviour and other school policies, and in the criteria for the appointment of all school staff (12). Along with the schedule, Catholic primary schools under the trusteeship of religious institutes or Education Trusts will have an educational philosophy statement or charter which gives expression to the particular charism or founding intention associated with their schools.

4.17 Unlike Catholic primary schools, Catholic voluntary secondary schools do not have a common schedule but provision is made in the **Articles of Management for Catholic Secondary Schools** for the appendage of a religious and educational philosophy statement, known as the second schedule (the first schedule relates to property and will be treated in Ch.7) .The relevant article refers to the second schedule as follows;

"The school shall be conducted in accordance with the religious and educational philosophy of the aforesaid Institute as contained in the second schedule hereto and in accordance with such Statutory Rules and Regulations of the Department of Education of the Republic of Ireland as may be in force from time to time and as may have been agreed by the Trustees, and in accordance with the provisions of these Articles, and shall not be conducted for personal gain or farmed out to the principal or any other person". (13)

4.18 It is a matter for each diocese, religious institute, Education Trust or owner to append to the Articles of Management the deed, religious and educational philosophy statement or charter which represents the founding intention and traditions of their school or network of schools.

4.19 Obviously, the existence of schedules, charters or philosophy statements will not of itself guarantee the Catholic ethos of a school. The Patron/trustees have to engage proactively with Boards of Management and endeavour to set in train a process of dialogue involving all the education partners with a view to making the schedule or charter a living reality in the school. Out of this dialogue will emerge a school 'mission statement' together with a strategy

to implement educational aims and objectives. How patrons/trustees can influence ethos and mission will receive more detailed attention in upcoming chapters.

Patronage/ Trusteeship in the Education Act 1998

4.20 The White Paper on Education, **Charting our Education Future** (1995), states that 'the learner is at the centre of the education process' (p.7). The other principal participants are collectively referred to as partners – parents, patrons/trustees/governors/owners, management bodies, teachers, the local community and the state. Reflecting the primacy of children's rights, including 'children who have a disability or who have other special education needs, as they relate to education', the **Education Act 1998** sets out a list of objects that **every person** concerned in the implementation of the Act ought to pursue. These objects include the provision/promotion of:

- a level and quality of education appropriate to people's needs
- equality of access to and participation in education
- educational opportunities through adult and continuing education
- the right of parents to send their children to a school of the parents' choice, having regard to the rights of patrons and the effective and efficient use of resources
- best practice in teaching methods
- national policy and objective of bi-lingualism in Irish society as well as language and cultural need of pupils
- accountability in the education system and transparency in the decision-making both locally and nationally (Section 6)

4.21 Clearly, achieving these objects has to be a collaborative process which includes patrons/trustees along with the education partners mentioned earlier. Section 8 of the Act focuses on the term '**patron of schoo**l' and defines it as (a) '**the person who, at the commencement of this section is recognised as the patron of a primary school**', and (b) '**the persons, who at the commencement of this section, stand appointed as trustees or as board of governors of a post-primary school and, where there are no such trustees or such board, the owner of that schoo**l'. While the term 'patron' has existed in regard to primary schools since the early years of the National Education System and also for a considerable period of time in regard to diocesan colleges, the term has not generally been used to designate the owners or trustees of voluntary secondary schools founded by religious institutes or lay people. In the context of the Education Act, the use of the term 'patron' includes the concepts of trustees, governors or owners as these terms have traditionally been understood in relation to secondary schools. As far as Catholic schools are concerned, the references to the role and functions of the patron in the Act give further statutory recognition, over and above what is contained in the Law of Trusts and the Charities Act 2009, to the ultimate authority of canonical administrators/trustees (i.e. bishops, religious congregation leaders, members and directors of EducationTrusts) in regard to the over all functions of schools and, particularly, in matters relating to ethos or characteristic spirit:

"In carrying out his or her functions, **the Minister shall have regard to** . . . the practices and traditions relating to the organization 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 instrument** relating to their establishment or operation". Section7 (4, iv)

"**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 establishment or operation of the school". Section 8 (6).

"A recognised school shall . . . promote the **moral, spiritual, social and personal development** of students and provide health education for them, in consultation with their parents, having regard to the **characteristic spirit** of the school". Section 9 (g)

"(**A 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 thereunder, deed, charter, articles of management or other such instrument** relating to the establishment or operation of the school". Section 15 (2)

4.22 It is significant that Section 8(6) quoted above specifies the duty of patrons as not only to carry out functions relating to the Act but also functions set out in deeds, articles, charters or other such instruments. One of these functions is to appoint a Board of Management in a spirit of partnership, 'where practicable'. The Education Act is quite explicit that **'it shall be the duty of the Board to manage the school on behalf of the patron'**. [Section 15 (1)] If the patron is satisfied that 'the functions of the Board are not being effectively discharged', the patron may seek the consent of the minister to dissolve the Board. [Section 16 (1,b)]. Equally, the minister may take the initiative in seeking the dissolution of a Board [Section 17 (1)], but it ought to be noted that, irrespective of who initiates the process to have a Board dissolved, it is the patron who effects the dissolution. The fact that the patron has the right to appoint and dissolve Boards of Management reflects the permanent nature of the role of the patron in contrast with the subordinate, transient nature of the role of the Board of Management. This position was clarified in the judgement arising from the court case involving Uí Chróinín et al and the Minister for Education and Science Ireland and the Attorney General in May 2009. Referring to the **Education Act 1998**, the relevant excerpt from the judgement states:

"these statutory provisions leave no doubt that the role of the patron is of a more primary and antecedent nature than the role of the Board of Management. It appears to be intended by the Act that the Board of Management is to be a derivative of the patron, to act as the manager of the school from day to day along with the patron. This primary and antecedent role shows the contrast between the permanent or enduring role of the patron and the temporary nature of the roles of the various members of the Board".

4.23 However, once a Board of Management has been established in accordance with the **Articles of Management** (Voluntary secondary schools) and the **Rules for National Schools**, the Board has statutory recognition and, along with managing the school on behalf of the patron, must carry out the specific functions ascribed to it under the Education Act 1998 as well as functions that are in accordance with policies determined by the Minister from time to time.

Functions of a School

4.24 Before discussing in detail the interface between the patron and the Board of Management (Ch. 5), it is important to reflect on the functions of a school as set out in Section 9 of the Education Act. Some of these functions are already mirrored in the objects set out in Section 6 of the Education Act while other functions are re-visited later in the Act. Since the functions are not specifically designated as the responsibility of the patron, it has to be assumed that, given the primary and antecedent role of the patron, the duty to ensure that these functions are carried out rests with the patron in collaboration with the Board of Management and all of the education partners. The functions in question include:

- providing for the educational needs of all students
- ensuring that students have access to appropriate guidance to assist them in their educational and career choices
- promoting moral, spiritual, social and personal development and providing health education, in consultation with parents, having regard to the characteristic spirit of the school
- providing equal opportunity for male and female staff and students
- providing access to records in the prescribed manner
- conducting school activities in compliance with regulations made from time to time by the minister
- promoting the development of the Irish language, literature, arts and culture
- identifying, and providing for, the needs of personnel involved in management and providing for staff development
- establishing systems to assess efficiency and effectiveness both in the school's operation and the quality of teaching and learning
- establishing and maintaining contacts with other schools
- establishing and maintaining an admissions policy.

4.25 Undoubtedly, the patron has to delegate these functions to the Board of Management who in turn will have to delegate many of the functions to the Principal and staff of the school. This series of functions has to be included in the overall tapestry of accountability involving school staff, Board of Management and patron. Apart from the state's interest in providing for a good standard of education *per se* for its citizens, it is entirely understandable that, given the significant amount of public money that is expended on schools, the state should require high standards of accountability in regard to this expenditure. Patrons welcome the role and functions of **The Inspectorate** as set out in the Education Act - supporting and advising schools, evaluating operational and educational standards, assessing the implementation of educational programmes, assessing the implementation of regulations made by the Minister and reporting to the Minister, Board, patron, teachers and parents as appropriate.

4.26 As it is a primary role of **The Inspectorate** to promote excellence in the management and internal operation of schools as well as in the quality of teaching and learning (14), the patron who is equally committed to excellence in these areas receives advance notice of **WSE -MLL** visits to schools as well as preliminary and post-evaluation meetings with the Board of Management, and receives a copy of the **WSE-MLL Report**. A representative of the patron may attend the preliminary and post-evaluation meetings between the **WSE-MLL** inspectors

and the Board of Management. This involvement keeps patrons up to date with required standards of excellence and affords them further opportunities for ongoing pro-active engagement with Boards and schools.

Education Offices and Secretaries

4.27 Because patrons whether they are bishops, higher religious superiors or members and directors of Education Trusts have many duties demanding their attention, it would be impractical to expect them to have time to attend the duties of patronage on a day to day basis. For this reason, many patrons have established education offices to attend to the functions of patronage and provide support services for Boards of Management and school Principals. Further attention will be given to the operation of education offices in the context of Education Trusts. (Cf. Ch.8) Where offices have not been established, dioceses (15) and religious institutes have appointed education officers to represent the bishops or higher superiors in issues relating to patronage. Whether the functions of patronage are carried out by individual officers or secretariats, ultimate authority and accountability rest with the patron/trustees who have been registered under the provisions of the Education Act.

4.28 One of the tasks that education offices/officers undertake is the forming of networks of schools. These networks involve key personnel – principals, chairpersons of Boards and heads of R.E. departments where relevant. At primary school level, networks are usually formed on a local or regional basis whereas at second level networking tends to be associated with the particular schools under the trusteeship of religious institutes or Education Trusts. Primary schools under the trusteeship of religious institutes or Education Trusts tend to have networks similar to their secondary school counterparts. There are also instances of 'stand alone' or small groups of secondary schools that have formed networks on trustee issues, e.g. the Single Trust Support Network. Irrespective of how they are formed, networks provide patrons and trustees with excellent opportunities to revisit educational philosophy statements and charters and to engage in constructive dialogue with those who play vital roles in the educational enterprise.

4.29 While their main focus is on management issues, the Catholic Primary Schools Management Association (CPSMA) and the Association of Management of Catholic Secondary Schools (AMCSS) provide tremendous support for Boards and Principals at local, regional and national levels. As explained in the previous chapter, the AMCSS provides most of the membership for both the CMCSS and the JMB. In the future it is expected that the ATCS will have representation on both the CPSMA and the CMCSS at national level which should assist in differentiating between management and trustee issues and in determining who represents Catholic school interests when complex or controversial education matters arise.

Chapter 5   The Patron/Trustees and the Board of Management

5.1 Having looked at the general functions of patrons/trustees under the relevant law regimes, it is now appropriate to focus on the relationship of patrons/trustees with the body corporate they appoint to manage the school - the **Board of Management**. The aspects of this relationship that will be discussed here will include the characteristic spirit of the school, appointment and composition of the Board of Management, principles of good management, general functions of the Board, particular functions such as - admissions' policy, safeguarding children and the Board as employer (other functions will be discussed in ensuing chapters). Apart from differences in the manner of appointment and composition of primary and secondary school Boards (treated separately), the functions of the Board of Management, under the **Education Act 1998** and from a patron/trustee perspective, are essentially the same.

5.2 With so much emphasis on the duties imposed on Boards of Management by the **Education Act 1998** and other legislation (1), it can be sometimes overlooked that Boards were in existence prior to the Education Act and that they operated in accordance with clearly defined procedures. These procedures are recognised in the Education Act as '**articles of management**' which are defined as:

"**any instruments, relating to the operation and management of schools, as are in operation on the commencement of this Act and as shall be agreed from time to time by patrons of schools, national associations of parents and recognised trade unions and staff associations representing teachers".** (2)

5.3 Having recognised existing operational procedures, the **Education Act 1998** reinforces the patron/trustee interest in the school ethos by stating that, in carrying out its functions, the Board of Management shall '**uphold, and be accountable to the patron for so upholding, the characteristic spirit of the school . . .'** (3)

Characteristic Spirit of the School

5.4 What can be inferred from the description of 'characteristic spirit' in Section 15 (2) of the **Education Act 1998** is that it relates to the values and traditions that inform the objectives and conduct of the school. As traditions can take some time to become established and are not necessarily good in every instance, one has to look, first and foremost, at the founding intention of the particular school and the values that were articulated at the time of its foundation or expressed in foundation documents such as deeds, educational philosophy statements or charters. In the case of Catholic schools, a significant aspect of the 'characteristic spirit' is the 'spirituality' of the individual school based on the manner through which the Christian faith is expressed not only in celebrations, rituals and symbols but also in the cultivation of a Christian mindset throughout the school community in every day activities and practices.

5.5 Catholic schools from their foundation will have their own special ongoing 'spiritual' story based on the story of Jesus Christ being told, retold, expressed and celebrated. Where a school is founded by a religious institute, the Christian story will be influenced and enriched by the special spirituality or charism associated with the founder of the institute. If a Catholic school is not associated with a religious institute, its special spirituality may derive from its

patron, the particular circumstances of its parish or local community or the ongoing Christian commitment of key school personnel to the founding intention of the school.

5.6 Cultivating a Christian mindset within the school community involves collaboration between all of the partners – patron and Board of Management, Board of Management and principal, principal and school staff, school staff and pupils along with parents/guardians. In order to take ownership of aspirations expressed in foundation schedules or charters, the Board of Management, school staff, parent and pupil representatives, after reflection and dialogue, seek to define the unique mission of their particular school and set out the broad educational aims and objectives that they hope to achieve. It would be beneficial to this process if agents of the patron/trustees were available to offer guidance and support. In order to promote and safeguard the characteristic spirit, the practical involvement of the patron/trustees is required in the following areas:

- appointing and training of members of Boards of Management
- selection of Principals and Deputy Principals
- support for Principal and teaching staff
- regular contact with key personnel in the school
- approval of school plan
- approval of admissions policy
- curriculum and timetabling, with particular reference to the characteristic spirit
- evaluation of the school's progress, especially in the context of the characteristic spirit.

5.7 The **mission statement** and broad educational aims and objectives of the school receive the approval of the patron/trustees before being promulgated among the school community (4). Ways and means of making the school's 'special spirituality' a living reality in the day to day life of the school are explored. This 'special spirituality' or ethos will be evident not only from the specific religious rituals of the school but from the quality of the interactions between management and staff, between staff and pupils/parents, and also from the school's Christian commitment to the needs of people beyond the school community.

5.8 An essential ingredient in the 'special spirituality' or ethos of the school is formation in the Catholic faith. The school will make provision for religious instruction, Masses and liturgical celebrations, retreats, social awareness projects and visits by school chaplains. The Chaplain or Co-ordinator of Chaplaincy services can play a significant role in cultivating a reflective, spiritual climate in the daily life of the school.

5.9 Ultimately, the characteristic spirit will depend on how the school strives to integrate faith and the culture in which the school finds itself (5). Regular articulation of the founding intention by key personnel associated with the school and ongoing reflection on the school's mission, educational aims and objectives will help to generate a characteristic spirit which will have certain core fundamentals but will also be open to new operational procedures and challenges.

Setting up the Board of Management of a Primary School

5.10 Primary schools operate under the **Education Act 1998**, other relevant legislation and the **Rules for National Schools**, currently applicable, which are made by the Minister for Education and Skills (6). As previously stated, the Board of Management manages the school

on behalf of the patron in accordance with relevant legislation together with deeds, charters, articles of management or other instruments recognised in the Education Act. The patron is responsible, under the Act, for initiating the steps necessary for the establishment of a Board of Management. The procedures for setting up Boards of Management are detailed in the Department of Education and Skills publication **Boards of Management of National Schools - Constitution of Boards and Rules of Procedure** (2007). For schools having a recognised staff of one teacher, the Board is constituted as follows:

- one direct nominee of the Patron
- the Principal of the school
- one parent elected from the general body of parents of pupils enrolled in the school
- one extra member proposed by the three nominees designated above.

5.11 For a school having a recognised staff of more than one teacher, the Board comprises:

- two direct nominees of the patron
- two parents (one being a mother and the other being a father) elected from the general body of parents of pupils enrolled in the school
- the school Principal (or Acting Principal)
- one other teacher from the school staff, elected by the teaching staff
- two extra members (community representatives) proposed by the six nominees designated above.

5.12 Established procedures for the election of teacher and parent nominees for appointment by the Patron ought to be followed (7). The process for selection of community representatives for appointment to the Board is overseen by the Patron's representative who shall convene a meeting of the patron, teacher and parent nominees within seven days of the completion of the elections. Every effort should be made to reach unanimous agreement regarding suitable members from the wider community. It would help to expedite matters if a panel of suitable people were drawn up together with an agreed order in which the identified persons were to be approached. The criteria for identifying suitable persons from the community to act as Board members for Catholic primary schools are:

- Persons nominated shall have a commitment to the ethos of the school and shall have an understanding of and commitment to Catholic education as outlined in the Deed of Trusts for Catholic Schools.
- Persons nominated shall possess skills complementary to the Board's skill requirements.
- Persons shall be nominated with a consciousness of having a gender balance on the Board.
- Persons nominated shall be interested in education and its promotion but would normally not be parents of pupils attending the school.
- In the case of Catholic Gaelscoileanna/Gaeltacht schools, people nominated shall have an understanding of and commitment to the ethos of the school. It is also expected that those nominated shall have a good knowledge of the Irish language (8).

5.13 When the teacher, parent and community nominees are known, the names are communicated to the patron who will then formally appoint the Board of Management. The patron shall appoint one of the members so appointed as Chairperson of the Board of

Management and shall communicate the name of the Chairperson to the Minister on a special Declaration Form (9). If there is no response from the Minister within 10 days of receipt of the aforementioned Declaration, the Board is deemed to be appointed and should assume office forthwith. The first meeting of the Board should take place within one calendar month of assuming office. While the Patron appoints the Chairperson, it is a matter for the Board of Management to appoint a Recording Secretary where the school Principal does not take up the allowance payable for acting as Secretary to the Board. The Board of Management also appoints the Treasurer who keeps the school accounts (10). A Board's term of office is of 4 years' duration.

5.14 As the dissolution of a Board or the removal of a Board member is a very serious matter, the patron will refer to the established procedures (11) before embarking on such a course of action. When cessation of membership occurs for whatever reason, the vacancy will be filled as soon as possible 'by a new member appointed in the same manner as that in which the vacating member was appointed' (12).

5.15 Patrons/Trustees work in collaboration with the CPSMA in providing pre-service training or induction for Board members.

Setting up the Board of Management of a Voluntary Secondary School

5.16 The procedures for setting up Boards of Management for Catholic voluntary schools are set out in the **Articles of Management for Catholic Secondary Schools** (13). A Board is appointed for a three year period with the term of office expiring on the 15th October in the third year after the Board was constituted. Trustees keep a record of when Boards were appointed and, when the term of office of a Board is about to expire, initiatives to appoint a new Board are undertaken at least four weeks in advance of the 15th of October in the relevant school year. The nomination of parents and teachers is done in a democratic and transparent manner. Trustees give careful consideration to their choice of nominees for the Board as it is most important that those who are chosen are committed to the Trustees' values in the decision-making process and are competent and interested in educational matters. The composition of the Board is as follows:

- Four members nominated by the Trustees of the school
- Two parents/legal guardians elected by parents/legal guardians whose children currently attend the school
- Two teachers, elected by all the current pro-rata contracted, non-casual part-time, job-sharing and current full-time teachers on the staff of the school on the date of the election.

5.17 When all eight nominees are known to them, the Trustees formally appoint the Board of Management. Trustees, parents and teachers should take account of the reference to gender balance in Section 14 (5) of the Education Act in the nomination/election process to determine Board membership:

"the patron shall comply with directions given by the Minister in respect of an 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."

5.18 The Trustees appoint one of their nominees as Chairperson of the Board of Management and the Principal of the school acts as secretary to the Board. The Principal is entitled to attend and speak at all meetings of the Board but is not entitled to vote.

5.19 The Board of Management is obliged to set up a sub-committee on Finance consisting of the Principal and two Board members and may invite additional persons who have specific expertise in financial matters to membership of the sub-committee. The sub-committee meets regularly and reports to the Board at least once in each term. Other sub-committees of its own members may be established by the Board to execute specific functions entrusted to them. Such sub-committees are required to report to the Board on action taken. The Board is also responsible for the setting up by the Principal of an Advisory Board of Studies to be elected by and from the full-time teaching staff. The role of this Board is to advise the Principal in his/her academic administration.

5.20 All Board members attend induction sessions or pre-service training courses which are organised by the CMCSS/JMB in conjunction with ATCS. Individual Trustees may wish to have their own induction sessions to complement the work of the CMCSS/JMB and communicate their own particular vision or educational philosophy to Board members. Board members also receive a copy of **A Manual for Boards of Management of Voluntary Secondary Schools** which was updated in 2009. This manual contains detailed information on the functions of the Board of Management as set out in the **Articles of Management**, the **Education Act 1998** and other relevant legislation.

5.21 If for good and valid reasons, the Trustees feel that a Board should be dissolved or a Board member should be removed, the procedures set out in Section 16 of the **Education Act 1998** are followed. Vacancies are filled in accordance with the provisions of the Articles of Management as detailed in **A Manual for Boards of Management of Voluntary Secondary Schools** (14).

Some Guiding Principles for Boards of Management

5.22 Before exploring general or specific functions of Boards of Management, it is important that Board members reflect on what core principles may guide them in the fulfilment of their duties under the **Education Act 1998** and other legal instruments that have already been identified. Board members can readily see that there are many things to be done but sometimes there is a lack of clarity about the underlying rationale for doing them. While the principles listed below are not intended to be all-embracing, they may provide Boards with useful basic terms of reference:

- Stewardship
- Body Corporate
- Partnership
- Accountability
- Confidentiality.

5.23 **Stewardship** means that the Board is managing the school, first and foremost, on behalf of the patron/trustees. Apart from upholding and promoting their educational philosophy, the patron/trustees will expect the Board to attend to all the functions assigned to it under the Education Act and all other legislation that impinges on school life. The Board also has a fiduciary responsibility to safeguard (a) the right of every stakeholder, especially the young

and vulnerable, to a safe and secure physical and emotional environment, and (b) the school's property and finances.

5.24 The **Education Act 1998** states that 'each board shall be a **body corporate** with perpetual succession and power to sue and may be sued in its corporate name' (15). While they may be nominated by different constituencies, once appointed Board members must act in the best interests of the school. When the Board has spoken, either through majority approval of written policies or adopted resolutions, all members are obliged to support the Board's position. Being a **body corporate** means that individual Board members do not possess authority as individuals. This would undermine the principle that a Board must speak and act as one.

5.25 Because the education process involves many stake-holders, it is most important that schools are managed in a spirit of **partnership**. The manner in which Boards are constituted reflects the commitment to partnership in the **Education Act 1998** and on the part of patrons/trustees. **Partnership** is characterised by shared values, mutual respect and openness to different perspectives. It involves sharing of information, responsibility, decision-making and accountability. It also involves learning and sharing good practice within networks of schools.

5.26 The exercise of stewardship involves **accountability** to (a) the Patron in areas such as ethos, curriculum, property and finance, (b) the school community – being responsive to the needs of pupils, parents, teachers, and (c) the Department of Education and Skills – regarding the teaching and learning environment, the quality of teaching and learning, expenditure of public finances. Apart from these obvious areas of **accountability**, the Board must also be a **strategic partner** to the school Principal in forward planning, monitoring and reviewing. In this respect, the Board can bring a 'boundary' (not exactly inside or outside the organization) perspective to bear on planning and strategic decisions (16).

5.27 Issues around transparency and **confidentiality** can arise in relation to the manner in which a Board operates. In the interest of transparency, it is important that there are good channels of communication between the Board and the other stakeholders in the school. However, matters come before Boards that need to be treated with the utmost **confidentiality** and it must be regarded as a matter for the patrons/trustees if information which compromises a Board as a corporate body is disclosed by an individual Board member. All matters that are raised at Board meetings are confidential unless or until the Board agrees otherwise. With the Board's permission, agreed reports may be issued to parents and staff.

General Functions of the Board of Management

5.28 Being responsible for the functions of the school detailed in Section 9 of the **Education Act 1998** (17) is a statutory obligation of the Board of Management which arises from the following provisions in the Act: **"It shall be the duty of a Board of Management to manage the school on behalf of the patron"** (18), and **"A Board . . . shall fulfil in respect of the school the functions assigned to that school . . ."** (19). As the general **functions of a school** were detailed in the previous chapter, it is now appropriate to examine the **functions of a Board** in the context of Part IV, **Sections 15 - 21** of the Education Act. It is important in delivery of pre-service to ensure that Boards of Management understand that both sets of functions are their responsibility.

5.29 Some of the functions that are detailed in Part IV of the Education Act will receive attention later in this chapter and in ensuing chapters.

5.30 The functions of a Board in **Section 15** of the Act may be summarised as follows:

- to manage the school on behalf of the patron/trustees for the benefit of students and their parents and to provide an appropriate education for each student
- to perform the functions conferred on it by the Act in accordance with Ministerial policy
- to uphold the characteristic spirit of the school and to be accountable to the patron/trustees for so upholding (discussed above)
- to consult with and keep the patron/trustees informed of decisions and proposals
- to publish an admissions policy (discussed in next section)
- to have regard to the principles and requirements of a democratic society and to have respect for the diversity of values, beliefs, traditions, languages and ways of life in society
- to have regard to the efficient use of resources, the public interest and accountability to students, their parents, the patron/trustees, staff and the community served by the school
- to use the resources provided by the school from monies provided by the Oireachtas to make reasonable provision and accommodation for students with a disability or other special educational needs including, where necessary, alterations of buildings and provision of appropriate equipment.

5.31 **Sections 16 and 17** of the Act refer to dissolution of a Board at the initiative of the patron/trustees and at the initiative of the Minister respectively. If the question of removing a Board member or dissolving a Board arises, the patron/trustees follow the procedures that are specified in these sections.

5.32 **Section 18** of the Act refers to keeping of proper **accounts and records** (Cf. Ch. 7) while **Section 19** refers to the requirement of a Board to furnish the patron/trustees or Minister with information that they may, from time to time, require.

5.33 **Section 20** of the Act obliges a Board to establish procedures for informing parents of students about matters relating to the operation of the school. Such procedures may include the **circulation of a report** to parents, teachers and other staff and the students' council on the operation and performance of the school in any school year, with particular reference to the achievement of objectives as set out in the school plan. **Section 21** is concerned with the **school plan.** (Cf. Ch. 6).

Admissions' Policy

5.34 In the interest of clarity, the section of the **Education Act 1998** relevant to a school's admissions' policy is quoted in its entirety underneath:

" (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 education 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 directions 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 the persons concerned, are complied with". Section 15 (2, d)

5.35 Before reflecting on some of the detail in this admissions' policy provision, it is relevant to note that the interest of the patron/trustees is recognised. It is a matter for the patron/trustees to devise the over-all framework for the admissions' policy in areas such as:

- single sex or co-educational school
- the religious denomination which the school is to serve
- the degree to which admission of pupils from other faith denominations is acceptable
- informing parents of the Catholic nature of the school and requesting parents before enrolling their children to indicate their support for the Catholic ethos of the school.

5.36 Boards need to be conversant with the requirements of other legislation, as well as the **Education Act 1998**, in formulating their Admissions' Policy - **Education Welfare 2000** (Sections 19. 26, 27, 29), **Equal Status Acts 2000 – 2004** and **Education for Special Needs Act (EPSEN) 2004** (20). Under Section 23 of the Education Welfare Act, the Board of Management of each school must prepare and make available a code of behaviour for its students. The code of behaviour is drafted in accordance with the Guidelines issued by the National Education Welfare Board (NEWB) in May 2008. Each school should have reviewed its Code of Behaviour since May 2008 and amended it in accordance with these Guidelines which have their basis in law (21):

"A code of behaviour shall be prepared in accordance with such guidelines as may, following consultation by the Board with national associations of parents, recognised school management organisations and trade unions and staff associations representing teachers, be issued by the Board". Education Welfare Act 2000, Section 23 (3)

5.37 As the Code of Behaviour deals with 'participation in the school' as well as conduct that may lead to suspension and expulsion, the Code is made available to parents/guardians before they enrol their children in a school. The policy and procedures in relation to suspension and expulsion should have the approval of the patron/trustees before being issued in conjunction with the admissions' policy.

5.38 In regard to the **Equal Status Acts 2000 – 2004**, certain exceptions under the Act allow for a school:

- to admit students of one gender only
- to admit persons of one particular denomination in preference to other denominations, or in the case of a refusal if it is proved that the refusal is essential to maintain the ethos of the school
- to treat students differently on gender, age or disability grounds in regard to sporting facilities or sporting events because of the nature of these facilities or events
- not to enrol a student with a disability where the provisions in relation to the student would make it impossible, or have a seriously detrimental effect on the provision of services to other students.

5.39 While the admissions' policy of a school makes specific reference to students who have disabilities or special educational needs and its capacity to cope with these students, it is advisable that Boards of Management draw up a separate policy on special educational needs in light of the **EPSEN 2004 Act.** Boards need also to be aware that irrespective of the grounds on which students are refused enrolment, or are suspended or expelled, parents or students who have reached eighteen years of age are entitled under **Section 29** of the **Education Act 1998** to be made aware of their right to appeal the decision.

Protection and Welfare of Children

5.40 Patrons and trustees will emphasise to Boards of Management the importance of formally adopting and implementing **Child Protection Procedures for Primary and Post Primary Schools** which were issued in October 2011. These procedures were developed following extensive consultation with the education partners and are based on the publication **Children First – National Guidance for the Protection and Welfare of Children 2011**. Child protection must be a priority for every school and must be at the core of all of its activities.

5.41 The **Child Protection Procedures** identify the following principles of best practice to which all schools will adhere:

- recognise that the protection and welfare of children is of paramount importance, regardless of all other considerations
- fully co-operate with the relevant statutory authorities in relation to child protection and welfare matters
- adopt safe practices to minimise the possibility of harm or accidents happening to children and protect workers from the necessity to take unnecessary risks that may leave themselves open to accusations of abuse or neglect
- develop a practice of openness with parents and encourage parental involvement in the education of their children
- fully respect confidentiality requirements in dealing with child protection matters.

5.42 The procedures require all primary schools to fully implement the **Stay Safe** programme. Because of their relevance to child protection, the Board of Management of primary and post-primary schools ensures that policies, protocols and practices, as appropriate, are in place in respect of: (i) Admissions Policy; (ii) Child Protection Policy; (iii) Code of Student Behaviour – Policy and Procedures on Expulsion: (iv) Dignity at Work and Anti-Bullying; (v) Guidance Policy; (vi) Homework Policy; (vii) I.C.T. Policy; (viii) SPHE/Relationship and Sexuality Education; (ix) Health and Safety Statement; (x) School Related Crises; (xi) Substance use/misuse policy.

5.43 Within the framework of its Code of Behaviour, every school must have in place measures to deal with bullying behaviour. Guidelines on counteracting bullying behaviour can be accessed on www.education.ie.

The Board as Employer

5.44 As the quality of a school depends to a large extent on the quality of its personnel, the patron/trustees are advised to give guidelines to Boards of Management on best practice in

regard to staff recruitment and in-service. Apart from promoting best practice, it is also a matter of concern for the patron/trustees that those who are appointed to a staff support the Christian ethos of the school.

5.45 Both **Bunreacht na hÉireann** which states that: "**every religious denomination shall have the right to manage its own affairs . . . and maintain institutions for religious and charitable purposes**" (Article 44.5) and the **Employment Equality Act 1998** recognise that denominational institutions may discriminate in favour of their own denomination. The relevant section from the Act states the following:

"A religious, educational or medical institution which is under the direction or control of a body established for religious purposes or whose objectives include the provision of services in an environment which promotes certain religious values shall not be taken to discriminate against a person . . . if it gives more favourable treatment, on the religious ground, to an employee or a prospective employee over that person where it is reasonable to do so in order to maintain the religious ethos of the institution". **Employment Equality Act 1998** 37 (1)

5.46 While it is of particular importance that those who are appointed to leadership roles such as Principal and Deputy Principal are committed to supporting the religious ethos, the section from the Employment Equality Act cited above entitles a Selection Committee to give more favourable consideration to a candidate, for any post in a school, whom they believe will support the school's religious ethos.

5.47 As the procedures and practices for appointing principals, deputy principals, teaching staff and special needs assistants in the primary school and secondary school sectors are different, the patron/trustees of schools where appointments are due to be made are advised to consult the **CPSMA Manual** (p.64 – 74) or **Boards of Management of National Schools – Constitution of Boards and Rules of Procedure** (p.34 – 54), in the case of primary schools, and the **Articles of Management for Catholic Secondary Schools** in **A Manual for Boards of Management of Catholic Secondary Schools** (p.89 – 101) as well as chapters 8, 9 and 10 of the same manual, in the case of voluntary secondary schools. The patron/trustees will remind the Board of Management of the following aspects of the selection/appointment process:

- the advertisement should make the Catholic nature and patronage/trusteeship of the school known
- information provided to the applicant should include the school mission statement and other supporting material
- the selection committee may be instructed by the patron/trustees that religion may be used as a criterion for short-listing and appointment. Where the patron/trustees pursue this option, their instruction ought to be in writing and drafted with legal advice
- the interview should explore each candidate's commitment to the characteristic spirit of the school
- the letter of appointment ought to include a statement on the Catholic ethos of the school.

5.48 Since the patron/trustees are entitled to be represented on the selection committees for principal, deputy principal and teaching staff appointments, they pay special attention to the following:

- competence and experience of their nominees to the selection committee
- gender balance
- informing the selection committee nominees of relevant associated issues, e.g. importance of commitment to school ethos, relevant legislation
- criteria for determining with the other members of the selection committee the short-listing and selection process that ought to apply
- the possibility of the selection committee having to recommend that a post ought to be re-advertised where there are too few candidates or where none of the candidates interviewed is suitable for appointment.

5.49 The Board of Management as legal employer of all school staff needs to be informed by the patron/trustees of their statutory duties under various Acts of the Oireachtas and Ministerial directives. Both the **CPSMA Manual** and **A Manual for the Boards of Catholic Voluntary Secondary** schools provide Boards with detailed information on their many duties as employers. Boards should read carefully the newsletters and other regular communications they receive from their national managerial bodies – the CPSMA or the JMB/CMCSS. Employment contracts whether permanent, fixed term, whole-time or part-time ought to be in accordance with current legislation and advice ought to be sought from the CPSMA or JMB/CMCSS when clarification of an employee's position is needed. As dismissal or suspension of an employee of the Board of Management is a very serious matter, it is most important that correct procedures are followed. In this regard, Section 24 (3) of the **Education Act 1998** refers to '**procedures agreed from time to time between the Minister, the patron, recognised school management organisations and any recognised trade union and staff association representing teachers or other staff as appropriate**'. The DES Circular 60/2009 sets out the procedures that are to be followed and indicates that these procedures '**supersede all disciplinary procedures in existence prior to this agreement**'. Where procedures exist for the processing of teachers' grievances against the Board of Management, the Principal, Deputy Principal or other teachers, or for the processing of parents' complaints against teachers, these procedures should be followed strictly so that chairpersons or Boards become involved **only** as the procedures specify.

5.50 Boards must take reasonable care that all school employees as well as students work in an environment that is safe and healthy and conforms with the **Safety, Health and Welfare at Work Act 2005** and the **Guidelines on Managing Safety and Health in Post-Primary Schools**. The latter publication is the outcome of a joint project undertaken by the Department of Education and Skills, the Health and Safety Authority, the State Claims Agency and the School Development Planning Initiative.

5.51 Other aspects of the working environment are treated under the **Employment Equality Acts 1998 and 2004**. These Acts require employers to take such steps as are reasonably practicable to ensure a workplace that is free of discrimination or harassment. The **Report of the Task Force on the Prevention of Workplace Bullying** (2001) recommends that every workplace should have a **Dignity at Work Charter** and a specific anti-bullying policy. Boards protect themselves from vicarious liability by ensuring that they have an *anti-bullying in the workplace policy* in place. The Equality Authority has prepared a Code of Practice aimed at giving practical guidance as to what constitutes harassment in the workplace and what procedures are to be followed where harassment is alleged to have taken place. In drawing up a **Dignity in the Workplace Charter** and an anti-bullying policy the patron/trustees may wish to ask the Board of Management to situate these documents in the context of the school community's commitment to Christian values.

Chapter 6   School Effectiveness and School Development Planning

6.1 Before delving into what the School Development Planning entails, it is important to reflect on some fundamental concepts about the relationships between the patron/trustees and the school as an organization. Much of the previous chapter was devoted to the Board of Management in its role of managing the school on behalf of the patron/trustees in accordance with Articles or Deeds of Management and functions assigned to it under the **Education Act 1998**. It may seem from the comprehensive nature of the functions of the Board of Management that the patron/trustees have no role in regard to the school's over-all performance. Such an assumption would be incorrect because, apart from the general moral duty as owners or trustees of the enterprise, Canon Law (1), the Law of Trusts (2), the Education Act and other legislation provide for oversight, either explicitly or implicitly, on the part of the patron/trustees. This is particularly true in regard to the characteristic spirit of the school and matters involving finance and property.

6.2 A recurring theme in the **Education Act 1998**, which is fully supported by patrons and trustees, is the **efficient and effective use of resources** and the **quality and effectiveness** of the education provided. One of the objects of the Act is:

"to promote the right of parents to send their children to a school of the parents' choice having regard to the rights of patrons and the **effective and efficient** use of resources".

<div align="right">Section 6 (e)</div>

Included as a function of a school is establishing and maintaining systems:

"whereby the **efficiency and effectiveness** of its operations can be assessed . . ." .

<div align="right">Section 9 (k)</div>

6.3 The functions of the Inspectorate include evaluation of the '**quality and effectiveness'** of the education in schools and centres recognised under the Act [Section 13 (3, a, i)] and the '**quality and effectiveness**' of the provision of education in the state. [Section 13, (3, b)] The Board of Management is expected to have regard to the '**efficient use of resources**' and the '**efficient use of grants**' and in so doing to be accountable to the various stakeholders.

6.4 It is clearly a matter of public interest, not only because of the extensive investment of state finances but also because of the desirability of a well educated young population, that schools operate in an efficient and effective manner. The **School Plan** required under Section 21 of **the Education Act 1998** and the processes associated with it are intended to make a significant contribution to the general effectiveness of the school. Because the **School Plan** is built on the founding intention and core values set out in religious and educational philosophy statements, it is essential that patrons/trustees oversee and approve the broad thrust of the plan.

The School as an Organization

6.5 At its most basic level the school is an organization established by a patron/trustee for a particular purpose. In order to achieve its purpose, any organization must have identified objects or goals as well people, organised in a systematic manner, to achieve these goals. The achievement of goals involves strategic planning - making decisions and performing a variety of activities such as putting systems and structures in place and creating rules and regulations

to define the conduct of members. For an organization such as a school to operate in an efficient and effective manner, management processes are required. **Efficiency** has to do with the relationship between inputs and outputs, for example achieving intended outcomes with minimal wastage of resources, or achieving the same outcome with fewer resources. **Effectiveness** relates to the attainment of stated goals or achievement of stated outcomes (3).

6.6 In the **Education Act 1998**, the terms 'efficient' and 'effective' are used in an interrelated sense and are taken to mean the achievement of the best possible educational outcomes from the available resources. Unquestionably, the patron/trustees of a Catholic school place a high priority on the efficient and effective use of resources in the pursuit of the Catholic vision of full human development through the attainment of spiritual, moral, cultural, social and educational goals. The management processes required to achieve goals have traditionally been identified as: **planning**, **organizing**, **leading** and **controlling** (4). In the school context, it may be more appropriate to substitute the terms '**monitoring**' and '**evaluating**' for 'controlling'. Before examining management processes as they relate to education, it may be relevant to form a general picture of the end product we have in mind, i.e. the effective school.

Characteristics of Effective Schools

6.7 There have been many studies on the characteristics of effective schools and the list cited below is an indicative rather than a precise representation of the factors that have emerged from research in different countries (5). These characteristics are not regarded as independent of each other or as a definitive checklist. However, it is more likely that a school will achieve its goals if the following characteristics are present:

- **A clear statement of mission and objectives** – the manner in which a shared vision for a Catholic school is developed has been treated in Ch. 4.

- **Effective and cohesive instructional leadership** – this comes initially from the principal and is firm and purposeful. Principals share leadership responsibilities and involve teachers in the decision-making process. The Principal is not only an administrator but also an educational and instructional leader.

- **A climate or environment that supports teaching and learning** – the psychosocial climate in which students operate is calm, safe, orderly, purposeful, free of fear and characterised by positive, respectful communication between staff and pupils.

- **High standards and expectations for all** - these are reflected in the first instance by the school professionals who have high expectations of themselves and who in turn communicate high expectations clearly to their students. They set challenges to match these high expectations and assist the students to meet them.

- **Focus on teaching and learning** – the primary purpose of the school is teaching and learning with the quality of teaching being foremost in effective learning outcomes.

- **Frequent monitoring of performance and positive reinforcement** – monitoring of performance has improvement as its goal. Through constructive feedback, students come to know where they are succeeding and where they need to improve. Positive reinforcement is used as much as possible and public criticism of students is avoided.

- **Active parental participation** – recognising that parents are the primary educators and the need for close partnership between school and home in the education process. Parents are encouraged not only to attend parent-teacher meetings to discuss their child's progress, but also to attend general information sessions and various activities in which their child is involved.

- **Continuing professional development of staff** – opportunities are provided for teachers to up-skill themselves in subject knowledge, teaching styles and methodologies, strategies to cope with pupils who have special needs, and classroom management.

6.8 Assuming that these characteristics are significant elements in the portrait of the effective school, it is now relevant to reflect on how the aforementioned management processes can facilitate the development of these elements. The umbrella term used to describe these processes in the context of primary and secondary education is **school development planning**. Apart from the references in the **Education Act 1998** to the 'efficient' and 'effective' use of resources, Section 21 (1) of the Act makes it a statutory requirement that:

"**A Board shall, as soon as may be after its appointment, make arrangements for the preparation of a plan (in this section referred to as the 'school plan') and shall ensure that the plan is regularly reviewed and updated**".

Planning

6.9 The term 'planning' in this context corresponds to the first of the four management processes mentioned earlier. It encompasses the school's mission and objectives, establishing an over-all strategy for achieving goals, identifying new challenges, setting priorities based on knowledge of the learning needs of pupils and managing the human and physical resources to the best possible effect. Recognising that schools exist for pupils, the central focus of the planning process is on teaching and learning and the total curriculum offered by the school. Education, as we have seen in deeds, charters, articles of management and the **Education Act 1998**, involves a partnership approach where the interests of the various stakeholders are respected through consultation, dialogue and participative decision-making.

6.10 As the guardians of the founding intention of the school, the patron/trustees are entitled to a significant input to the planning process. Having furnished the relevant personnel with the charter or educational philosophy statement reflecting the founding intention and educational values of the school, the patron/trustees review the mission statement and over-all thrust of the stated objectives of the school in order to ensure that their priorities have been recognised.

6.11 Planning is an ongoing cyclical process and commences or recommences with a review of the current situation. This review will entail:

- assessing current strengths and weaknesses
- setting realistic objectives for building on strengths and addressing weaknesses
- monitoring and reviewing objectives on an ongoing basis
- at the end of the cycle, evaluating the extent to which objectives have been achieved.

6.12 The review process will be informed by the '**characteristics of effective schools'** cited above as well as the **DES Strategy Statement 2001 – 2004** (2001) which identified as a key component in educational success 'the quality of teaching practice and school climate at first and second levels . . .'.

6.13 Since the **Education Act 1998**, various Social Partnership agreements contain specific references to school planning. The **Programme for Prosperity and Fairness (PPF)** (2000) states that: "Every school will partake in a school development planning process involving a school plan dealing with the whole curriculum and with the organization of the school's resources including staff, space, facilities, equipment, time and finance. It will also include the school's policies on a diverse range of administrative and organisational issues . . .".

6.14 Section 24.31 of **Sustaining Progress** (2003) states that: "It is agreed that the modernising programme of *School Development Planning* as agreed in the **PPF** will continue to be implemented and embedded in the school system". Section 31 of Implementation Strategies in **Towards 2016** reinforces what has been stated in previous Social Partnership agreements: "The parties agree that the most appropriate basis for development of strategies to enhance team and individual contribution is in the context of school development planning and holistic self-evaluation processes conducted by the school in line with best practice".

6.15 Once the objectives have been identified in the review process, decisions have to be taken as to the strategies that will best achieve these objectives. Ideally the decision-making process is collaborative but, in any event, relates to tasks that have to be done, the people who have to complete the tasks and the time-frame within which they are to be completed.

Organizing

6.16 Organizing includes determining how tasks are to be grouped, how resources – staff, space, facilities, equipment, time and finance – are to be deployed and how structures and systems are to be designed in order to facilitate the smooth running of the school. Organizing also includes the formulation of school policies on a range of administrative, organisational and educational issues as well as the promulgation and implementation of DES guidelines, circulars and regulations.

6.17 The grouping of tasks involves a teamwork approach which requires a team-leader or co-ordinator and reporting mechanisms. Organising the deployment of resources involves matters such as assigning teachers to classes, time-tabling of subjects and use of specialist rooms, organising supervision and substitution rotas, providing subject options, catering for extra-curricular activities, arranging dates and times – which generally appear in the school calendar - for parent-teacher meetings, staff meetings, school planning sessions, information evenings for parents, house examinations and many other events which may happen infrequently but are worthy of note.

6.18 In order to ensure a climate which is supportive of teaching and learning, various structures and systems are necessary. Depending on the size of the school and whether it is a primary or secondary school, a year head structure may be necessary for the fair and consistent implementation of the Code of Behaviour. Systems of referral need to be in place when the class or subject teacher seeks support in dealing with discipline problems. The ladder of referral may be the year head, deputy principal, principal, and, in extreme cases, the

Board of Management. Similar structures and referral systems may be in place for pastoral care which, in the case of secondary schools, may include the guidance counsellor or chaplain. Underpinning the structures and procedures that are required for the smooth running of a school are effective systems of communication. Many schools now use computer monitors in staff rooms and prominent places on corridors to inform the school community of current matters, to issue reminders and to reinforce aspects of school policy. However, the use of technology does not obviate the need for regular personal contact between principal and staff and between teachers and pupils. Methods of communication with parents may range from short text messages to detailed written or oral reports about pupil progress or behavioural issues.

6.19 Many of the policies that a school requires relate to the efficient and effective organization of the school. These policies may be categorised as follows:

- **policies based on legislation** – admissions and enrolment; code of behaviour and anti-bullying; health and safety; equality of opportunity; employment of staff; sexual harassment; management and staff development; school attendance; appeals procedures; parental involvement; integration of children with special needs/physical disabilities; certified accounts; health education; disciplinary procedures for teachers etc.

- **policies based on national guidelines** – child protection; relationships and sexuality education; learning support; substance abuse; intercultural education; assessment . . .

- **policies outlining practice** – dealing with accidents and injuries; communications; ICT and internet usage; protocols surrounding school tours; use of mobile phones and other electronic instruments; administration of medicines; use of audio-visual and other equipment; homework assignment and correction; extra-curricular activities; induction of student teachers and reception of substitute teachers; participation in interschool competitions . . . (6).

6.20 Some of the tasks outlined above may not seem to relate directly to learning and teaching but, if these tasks are adequately accomplished, the school will benefit from a climate that will have a significant impact on the delivery of the curriculum. Creating this positive climate requires advanced organisational skills, participative decision-making and teamwork, and above all leadership.

Leading

6.21 We have seen that creating the vision for a Catholic school is a partnership exercise. However, implementation of the vision depends very much on key personnel in the school, particularly on the leadership of the Principal. While there is a wealth of literature on leadership, it may be of help to patron/trustee representatives on selection committees for the appointment of principals to summarise or identify some of the more salient characteristics associated with leaders. Among the characteristics identified in the literature are:

- **Drive** – leaders have a strong desire for achievement, they have a lot of energy and they show initiative.

- **Desire to lead** – leaders have a strong desire to influence others and are willing to take responsibility.

- **Honesty and integrity** – leaders build trusting relationships by being truthful and by showing congruence between what they say and what they do.

- **Self-confidence** – leaders need to inspire confidence in followers by their belief in the rightness of their goals and decisions.

- **Intelligence** – leaders need to be intelligent in order to interpret and synthesize large amounts of information, to be able to create and communicate vision, to solve problems and make correct decisions.

- **Relevant knowledge** – leaders need to have a high degree of professional and technical knowledge of issues relating to their role. In-depth knowledge helps leaders to make informed decisions (7).

6.22 An essential ingredient in the leadership of a Catholic school is the Principal's commitment to the founding intention of the school. It is a matter for the Principal to lead the creation of a **vision**, based on the founding intention, for the future operation of the school that 'grows out of and improves upon the present' (8). The leadership traits that have been identified involve energy in the implementation of the vision - an energy that calls forth skills, talents and resources among stakeholders that may not have been visible previously. A well articulated vision offers a view of a future that is better for all of the stakeholders in the school. The stakeholders need to believe that the vision, while challenging, is attainable. Making the vision attainable requires action which is clarified through written and oral communication. However, good leaders do more than communicate the vision, they continually reinforce it through their behaviour and their highly visible commitment to it.

6.23 Leaders who can inspire followers to rise above their own self-interests for the good of the organization are described in some of the literature on leadership as *transformational leaders.* Transformational leaders show concern for the development of individual followers. They change followers' awareness of issues by helping them to approach old problems in new ways and they are able to enthuse and inspire followers to make extra efforts to attain the organization's goals (9).

6.24 The rock on which the implementation of the leader's vision rests is trust. Trust in the leader is based on integrity, competence, consistency, loyalty and openness in the interactions between leader and followers. Trust comes from experience – when someone is trusted it is assumed that person will not take advantage of people. In the context of school leadership, the leader will be trusted when s/he is known to be honest and truthful, has the technical knowledge and interpersonal skills for the role, is reliable and has good judgment, is loyal and willing to share information (10).

6.25 When one includes the statutory duties of the Principal set out in sections 22- 23 of the **Education Act 1998**, it is obvious that the Principal's role as leader of the school community is both onerous and crucially important for the welfare of the school. While the CPSMA and CMCSS/JMB provide principals with vital professional and technical support, principals need to be invited to visit and revisit the '**well**' from which has sprung the school's '**special**

spirituality'. These visits to the '**well**' can be facilitated by patrons/trustees at local, regional, congregational or trust levels though the formation of networks. Such networks have spiritual renewal and reflection on the school's commitment to its foundation ideals as their goal.

Monitoring and Evaluating

6.26 While '**controlling**' is used in the business world as the umbrella term for 'monitoring activities to ensure that they are being accomplished as planned' (11), the term is likely to have negative connotations in an educational context where so much emphasis is placed on aspects of human development that are unquantifiable. Even the terms '**monitoring**' and '**evaluating**' are inadequate if we confine their interpretation to academic excellence or measurable attainments, as this would ignore fundamental aspects of education such as spiritual and emotional development and moral disposition. Despite the concern of some prominent educational commentators about the limitations of quality assurance methods (12), there are many aspects of education provision and performance that can be monitored and evaluated and the less tangible aspects while not measurable may be observable in the Gospel sense of 'by their fruits you shall know them' (Matthew 7:16). In any event, the **Education Act 1998** obliges the Minister for Education and Skills:

"to monitor and assess the quality . . . and effectiveness of the education system provided in the State by recognised schools and centres for education".

6.27 The functions of the Minister in regard to oversight of the quality and effectiveness of schools are carried out by the Inspectorate whose powers and duties are detailed in Section 13 of the **Education Act 1998.** To assist schools in the monitoring and self-review process, the Evaluation Support and Research Unit (ESRU) of the Department of Education and Science Inspectorate issued publications entitled "**Looking at our School – an aid to self-evaluation in primary schools**" and "**Looking at our School – an aid to self-evaluation in secondary schools**" in May 2003. Five main themes for school self-evaluation have been identified in these publications:

- Quality of school management
- Quality of school planning
- Quality of curriculum provision
- Quality of learning and teaching
- Quality of support for pupils.

6.28 When engaging in a self-evaluation exercise a school may choose to focus on one particular theme over a period of time. **Looking at our School** breaks themes down into **aspects** and **components**, for example three aspects of **Quality of School Management** are identified: characteristic spirit of the school; school ownership and management; in-school management. Component elements for evaluating each of these aspects include the following:

- **Characteristic spirit of the school** – provision by the patron/trustees/owners of a statement of the religious and/or educational philosophy (founding intention) of the school - availability of this statement to all members of the school community – extent to which Mission Statement reflects founding intention – link between activities and policies of the school and founding intention – extent to which relationships throughout the school community reflect the characteristic spirit and are

characterised by mutual respect, openness and concern – effectiveness of communication within the school and throughout the school community and how this communication reflects the school's characteristic spirit and the values and principles outlined in the Mission Statement.

- **School ownership and management** – role of patrons/trustees/owners in the governance of the school and the level of co-operation between them and the Board of Management – extent to which the Board of Management functions in accordance with the requirements of the **Education Act 1998** and directives of the Minister – understanding of the role of the Board of Management among the school community – participation of members of the Board in training for their role – extent to which the Board's decision-making is characterised by openness, accountability, clarity of communications and sharing responsibility – effectiveness of the Board in upholding and supporting the characteristic spirit of the school - quality of partnership and support between the Board of Management and in-school management – effectiveness of procedures in ensuring meaningful communication with parents – level of awareness of the Board of Management of the school's accommodation and resource needs – use by the Board of Management of agreed rules and procedures in appointing and promoting staff –extent to which the Board of Management maintains accounts in accordance with statutory requirements, regulations and procedures and manages financial resources efficiently.

- **In-school management** – extent to which in-school management involves staff in decision-making and fosters a partnership approach to achieving the school's aims – effectiveness of systems of communication with staff – effectiveness of measures to resolve conflict – extent to which staff are facilitated in appropriate professional development – relevance of duties assigned to post-holders – policy and practice in the review of duties assigned to post-holders –application and implementation of admissions policy – implementation of the code of behaviour – treatment of pupils in a non-discriminatory manner in accordance with the Equal Status Acts 2000/ 2004 - quality of partnership with parents (parent- teacher meetings, flow of information etc.) – liaison with outside agencies and other educational institutions –procedures for processing parents' complaints and parents' awareness of these procedures - effectiveness of policy and practice in the deployment of members of the teaching staff – extent to which attention is paid to the efficient and economic use of resources – quality of accommodation, other material resources and maintenance – extent to which in-school management seeks the necessary resources for all students, including students with a disability or special needs, students from disadvantaged backgrounds and those from minority groups – ongoing self-evaluation leading to self-improvement.

6.29 A similar list of aspects and components is provided in **Looking at our School** for the other four themes. A school that works its way systematically through each of these self-evaluation themes will learn a lot about itself – its values, systems, structures, procedures, effective and efficient use of resources, quality of learning and teaching, curriculum planning and organization, provision for pupils with special needs or from disadvantaged backgrounds and the involvement of all of the partners in the education enterprise.

Approval of the School Plan

6.30 When the draft **School Plan**, or a significant review thereof, has been prepared the plan is submitted to the Board of Management for approval. It will be a matter for the patron/trustees after consultation with the Board to decide whether the entire plan needs their approval or just those aspects that have particular implications for the patron/trustees. Aspects such as the school's mission statement, ethos, enrolment policy, status and capital expenditure require the express approval of the patron/trustees.

6.31 The consistency between the mission statement and the founding intention of the school is of particular relevance and gives rise to the following questions:

- Does the mission statement form the basis for a clear formulation of the specific aims of the school?
- Is the mission statement in tune with the concept of the Catholic school set out in Chapter 1?
- Does the mission statement encapsulate the spirit of the charter, deed or educational philosophy statement relating to the founding intention of the school? (13)

6.32 Where the patron/trustees have reservations about aspects of the school plan or where issues about capital expenditure arise, it is important that these issues be addressed promptly. The governance aspect of the theme **Quality of School Management** in **Looking at our School** (2003) reflects an expectation that the quality of communication between patron/trustees and the Board of Management will be a model for communication throughout the school community.

Annual Report

6.33 Producing an annual report has become a routine practice in many schools, with patrons/trustees providing templates to facilitate this exercise. Whether the practice is well established or about to be introduced, it is an important aspect of the communication process involving patron/trustees/owners, the Board of Management and in-school management. The report may consist of the following:

- Routine information on operational aspects of the school – numbers enrolled, names of staff, subjects offered, performance in in-house (primary) and public examinations, involvement and achievements in sport
- Account of development planning - priorities that have been identified and progress in achieving objectives
- Description of how school resources have been deployed
- Areas of general concern which the school may wish to raise with the patron/trustees or the Department of Education and Skills
- Areas of particular concern to patron/trustees such as falling pupil numbers leading to the possibility of school amalgamations or closures.

6.34 Analysis of these reports may prove a challenge for patrons/trustees of large numbers of schools. A good reporting template will enable diocesan, congregational and Trust secretaries or secretariats quickly to identify from reports:

- Aspects of school life that need to be affirmed
- Areas in need of development
- Aspects of school policy or practice that are a cause of concern to the patron/trustees (14).

6.35 The ability of patrons/trustees to respond to reports promptly will vary but acknowledging receipt of an annual report is essential. Some reports will require immediate action on the part of the patron/trustees through correspondence, meetings or visits to the school. The majority of reports may not require immediate action, but not responding at all to reports is not conducive to promoting the spirit of partnership that enhances the quality of school management as set out in **Looking at our School** (2003).

School Amalgamations and Closures

6.36 Along with being involved in planning at a micro-level with the individual school, patrons/trustees are involved in planning at macro-level for current and future provision of Catholic education. The **Education Forum on Patronage and Pluralism in Primary Schools** has created new challenges for Catholic patrons. As indicated in **Catholic Schools in the Republic of Ireland – A Position Paper**, some existing schools may no longer be viable as Catholic schools. Some of these schools may close while others may amalgamate with a neighbouring school or schools. Where amalgamations are seen as the best local solution, the question of patronage is likely to arise. In cases where a change of patronage occurs, provision will have to be made for the rights of Catholic parents and their children.

6.37 One of the more innovative concepts in the **Report of the Commission on School Accommodation** (February 2011) is that of a **shared campus.** This concept would allow for a new Catholic school or an amalgamation of Catholic schools sharing a campus with a multi-denominational or non faith school. In such a campus, each school would respect the ethos of the neighbouring school. Underpinning the shared campus concept is optimising scarce financial resources and opening up new educational opportunities. The shared campus concept entails:

- **areas of responsibility for each individual school** – admissions policy, staff employment, parental involvement (Parents' Council), budget and finance, uniform and dress code
- **facilities which are the sole responsibility of each school** – each school would have its own clearly defined space, entrance foyer and reception, name and external signage, classrooms, specialist rooms, staff room, library and offices
- **shared facilities/responsibilities** – joint responsibility in regard to shared facilities such as assembly hall/sports hall, playground, heating plant, car park, ground maintenance, refuse collection (15).

6.38 A shared campus arrangement is likely to be on the agenda for new schools in large urban areas or in areas where it may be more economically and educationally advantageous to bring a number of existing small schools to a single campus. Where this latter concept is pursued, it is likely that diversity of patronage/trusteeship or co-trusteeship will be considered. All of the current proposals on future patronage/trusteeship of both primary and secondary schools require in-depth analysis of issues followed by consultation, negotiation, and decision-making. As Boards, teachers and parents are usually closer to the issues at local level than patrons or trustees, these stakeholders should be involved in the consultation

process. Stakeholders need to be informed, however, in as sensitive a manner as possible, that the decisions about the future status of a school under a particular patronage/trusteeship rest with the patron/trustees (16).

6.39 In some instances, where a school is no longer viable or where a religious congregation decides it can no longer maintain its involvement in a particular area, the hard decision to close a school or make other arrangements may have to be taken. In a situation where a religious congregation feels it can no longer maintain its involvement with a school, the congregation usually looks for other Catholic trustees to assume responsibility for the school.

6.40 A decision to close a school comes at the end of a process entailing:

- evaluating the school's position against criteria established for a vision of schooling provision in the area
- consultation with other patron/trustees in the area
- consultation with the stakeholders in the area – Board of Management, parents, school staff, community representatives
- negotiation with other providers
- informing stakeholders of the decision and managing the transition.

6.41 Managing the transition, which usually involves phasing out the school, may be difficult as pressure may come from the local community to reverse the decision to close. Delicate handling of this situation is required, without offering any hope that the decision will be reversed. The reasons giving rise to the closure may have to be re-iterated as well as the positive outcomes associated with closure and the negative consequences of attempting to keep the school open.

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Chapter 7   **Finance and Property**

7.1 The duty of canonical administrators and trustees to attend with due diligence to matters relating to property and finance arises under **Canon Law**, the **Law of Trusts**, the **Charities Act 2009** and the **Education Act 1998**. Canon Law recognises the importance of 'temporalities' in supporting the mission of the Church and emphasises the need to keep proper accounts of receipts and expenditure both for civil and religious authorities (1). The Law of Trusts implies that trustees must act with honesty and integrity (2) while the Charities Act 2009 requires the keeping of accounts on the part of trustees which must be audited where trustees have registered as a company under the **Companies Acts 1963 - 2009** (3). As one would expect, the Education Act requires accountability for the significant funds the state invests in primary and secondary education.

7.2 While the basic requirements of these law regimes regarding due diligence in financial matters are the same for both Catholic primary and secondary schools, arrangements for exercising due diligence vary from primary to secondary sectors and may also vary, particularly in the primary sector, from smaller to bigger schools. Details of the accounting arrangements for primary and secondary schools will be discussed separately but, first, it is necessary to look at the general principles and directives for financial accountability set out in the Education Act.

The Education Act 1998 and Financial Accountability

7.3 In Ch. 4, reference was made to the Uí Chroinín case where in interpreting statutory provisions in the Education Act the judgement draws attention to the role of the patron as being of a more primary and antecedent nature than the role of the Bord of Management. This judgement removes any ambiguity about the respective roles of the patron/trustees and the Board of Management. Underpinning the statutory duties which the Education Act sets out for the Board is the presupposition that 'it shall be the duty of the Board to manage the school on behalf of the patron . . .' (Section 15.1). This provision in the Act amounts to general statutory recognition of details in deeds and articles of management which refer to the responsibilities of Boards of Management to patrons and trustees. However, the Act does not remove the duty of oversight from patrons or trustees – a duty which existed prior to the Education Act and still obtains. Regarding the specific issue of financial accountability, the Act refers to the duty of the Board of Management to:

"have regard to the efficient use of resources (and in particular the efficient use of grants provided under Section 12) . . . Section 15.2 (f).

7.4 Section 12 of the Education Act refers to the annual provision of state funds from monies provided by the Oireachtas for each school recognised by the Minister:

"Except as otherwise provided by this Act, the Minister shall, in each school year by such date or dates as shall be determined by the Minister, make to each recognised school or centre for education a grant or grants, which accords with the criteria determined pursuant to this section, from monies provided by the Oireachtas in accordance with this Act, for the purposes of carrying on that school or centre for education". (Section 12.2)

7.5 The duty to keep accounts and records is set out in Section 18 of the Education Act:

(1) " . . . a Board shall keep all proper and usual accounts and records of all monies received by it or expenditure of such monies incurred by it and shall ensure that in each year all such accounts are properly audited or certified in accordance with best accounting practice."

(2) "Accounts kept in pursuance of this section shall be made available by the school concerned for inspection by the Minister and by parents of students in the school, in so far as those accounts relate to monies provided in accordance with Section 12."

7.6 These provisions of the Education Act leave no doubt as to the importance and need for a proper accounting mechanism with regard to public funds. Hence, schools need to identify the objectives of a good school accounting system. These include:

- ensuring that all school income and expenditure are properly recorded
- having financial management and control systems in place that classify and safeguard both public funds and monies from other sources
- ensuring that there are good reporting systems in place which give regular updates on the school's financial transactions and current state of accounts
- controlling financial liabilities and ensuring that they do not exceed permitted limits
- ensuring that all those charged with responsibility in regard to school funds have a clear understanding of their roles
- having a standardised system in place which facilitates the provision of information for the Department of Education and Skills, the Board of Management, the patron/trustees and parents of students in the school. (4)

Control of School Accounts - Primary School Sector

7.7 Arrangements for keeping school accounts in the primary school sector are set out in **Boards of Management of National Schools – Constitution of Boards and Rules of Procedure** (DES, 2007). When a Board of Management is appointed, the Board elects a Treasurer from among its members. The Treasurer should be familiar with the requirements of Section 18 (cited above) of the Education Act 1998. Some diocesan education offices or secretaries issue templates for statements of receipts and payments and where dioceses do not provide this service a computerised template of an efficient accounting system is available on request from the Primary Administration Section of the Department of Education and Skills.

7.8 Patrons/trustees advise Boards of Management to adhere to the following procedures:

- All monies shall be lodged in the school bank accounts.
- All expenditure by or on behalf of the Board of Management must be approved by the Board.
- All payments shall be made by cheque or through secure on-line banking services.
- Transactions must be authorised by two of three nominated signatories – the Treasurer in the first instance and the Chairperson who may in his/her absence nominate another Board member as signatory. Where possible the signatories should be from different representative bodies on the Board.
- Where on-line banking services are used, the Board shall satisfy itself that proper internal controls are in place and proper records kept of each on-line transaction.
- The Board shall discuss the most cost effective payment methods with their bankers.

- Where a petty cash account is operated full and proper records shall be kept. Petty cash disbursements may be made to Board members for expenses incurred on Board business – postage, telephone charges and other minor items.
- The Treasurer shall present an up to date statement of the school accounts at each Board meeting, giving details of income and expenditure since the previous Board meeting.
- The Treasurer shall retain vouchers of expenditure for inspection and audit by the school's accountants and by officials of the Department of Education and Skills.
- All financial documents are submitted to the Board of Management, and on request to the patron/trustees and to the Department of Education and Skills at the end of each financial year.
- A total account of the Board's income and expenditure shall be prepared at end of each school year and shall be properly audited or certified in accordance with best accounting practice. This account is made available to the school community, the patron/trustees and, on request, to the Minister. This account should incorporate details of all accounts which may be maintained separately by the Board in compliance with the terms of particular grant schemes.
- Copies of the Annual Statement of Accounts are presented to members of the Board of Management and a copy is retained as part of the Minutes of the relevant Board meeting.
- The Annual Statement of Accounts shall be available for audit by officials of the Department of Education and Science and officials of the Comptroller and Auditor General if requested. (5)

Control of School Accounts - Voluntary Secondary School Sector

7.9 The **Articles of Management for Voluntary Secondary Schools** which preceded but are recognised by the **Education Act 1998** make specific references to the duties of the Board of Management in respect of financial matters. Article 2(a) states:

"The conduct, management and financial administration of the school shall be under the control of the Board of Management which shall exercise the powers hereinafter conferred, subject to the general supervision and control of the Trustees for the time being."

7.10 Article 15(a) refers to the duties of the Board:

"The Board shall be responsible for all business carried out in connection with or on account of the school. It shall provide and cause to be kept proper books for the entering of the accounts of the school and the minutes of the proceedings. The Board shall open on account in a bank in the State, in its name to which all monies in relation to the school should be lodged".

7.11 As accounting systems have progressed since the Articles of Management were drawn up, 'proper books' in today's context have to be interpreted to include computerised accounting systems.

7.12 Article 15(b) entitles the Patron/Trustees to charge an annual licence for use of school property:

"The Board shall be responsible for a sufficient annual contribution to the Trustees to service any debts as to interest, capital and licence fee on the school property, but Trustees may, in exceptional circumstances, waive all or any part of this commitment in any one year."

7.13 To assist voluntary secondary schools to follow best practice in the administration of school finances and setting up proper accounting systems, the JMB Financial Support Services Unit (FSSU) published **Guidelines for Financial Management in Voluntary Secondary Schools** in 2006. These guidelines were assembled following consultation with school patrons and trustees, principals of schools and officials from the Department of Education Skills. The Department in co-operation with the JMB established the FSSU in 2005 (6). All secondary schools in receipt of public funds are now obliged to forward their annual accounts to this unit. Along with fulfilling this accountability function, the FSSU provides an ongoing financial support service for secondary schools to enable them to develop standardised systems of budgeting, accounts, control and reporting mechanisms. Having reviewed and collated Annual Financial Reports from schools, the FSSU prepares an annual report for the Department of Education and Skills and the JMB.

7.14 As the FSSU **Guidelines** provide all the details relating to best practice in regard to proper accounting procedures for voluntary secondary schools, it is unnecessary to repeat those procedures here. However, as patrons/trustees have ultimate responsibility for the operation of schools, it is important that they exercise the following monitoring controls in regard to schools' finances:

- A system of budgetary control
- Approval of annual budgets
- Approval of annual accounts
- Approval of Capital Expenditure (including major repairs)
- Approval of proposed loans, bank overdrafts, hire purchase and lease agreements.

7.15 Patrons and trustees will ensure that procedures are in place so that:

- Financial reporting is timely, accountable and a true and complete statement of the financial activities of the school
- Financial liabilities are minimised and do not exceed approved limits
- All income and expenditure from whatever source is documented in the school's annual financial report
- Best practice is being followed by the Board of Management (7).

School Budgeting

7.16 Budgeting is a future plan expressed in monetary terms against which financial transactions of the Board of Management are benchmarked. Budgeting or advance financial planning is necessary for the following reasons:

- To help the school achieve its educational objectives in accordance with its ethos and mission
- To meet statutory requirements
- To monitor the school's financial resources

- To develop systems for the efficient running of the school and maximising use of available resources
- To provide for essential items of expenditure such as wages, insurance, telephone, office supplies, maintenance costs etc.
- To enable patron/trustees to fulfil their supervisory role – Board's expenditure should not exceed income – overdrafts or other forms of excesses of expenditure over income must be approved by the patron/trustees who may require the Board to explain how deficits will be funded (8).

7.17 Preparation of the school budget begins with the Principal and Treasurer/Finance subcommittee arriving at assumptions on which the budget will be based. These assumptions will be derived from the likely opening position at the beginning of the new school year and the estimate of total revenue from **DES grants** (these include some or all of the following: **Capitation, Ancillary Services, Supervision & Substitution, DEIS, School Books, Standardised Testing, ICT, Home School Community Liaison, Early Start, Support Teachers**), school generated income (shops, evening study, lockers etc.), parents' voluntary contributions and fundraising. In calculating expenditure it is important to distinguish between essential and discretionary expenditure. Where projected expenditure exceeds income re-adjustments are made, particularly in the area of discretionary expenditure.

7.18 When the preparatory work is completed the proposed budget is submitted to the Board of Management. Before approving the budget, the Board may need to consult with those involved in fundraising for the school to establish that all monies raised for agreed projects are lodged to the school account and are under the jurisdiction of the Board. Authorisation for each fundraising activity is recorded by a specific Board minute indicating the purpose and nature of the activity involved. The Board should satisfy itself that all fundraising groups – Parents' Association, Students' Council and Past Pupils' Union – are properly constituted and have acceptable internal accountability and controls. Where donations are offered, the Board should satisfy itself that the donors are of good standing.

7.19 When the Board has approved the school budget, the budget is submitted to the patron/trustees.

Capital Expenditure

7.20 Because capital expenditure is generally of a once-off nature it is not normally included in the annual school budget. As a general principle all **capital expenditure**, irrespective of how it is funded, **must be approved in advance by the patron/trustees in writing.**

7.21 Capital expenditure refers to monies spent on an asset, or major repairs, the life expectancy of which exceeds one year. While smaller items of repairs or maintenance may be included in the school budget, it is a matter for the patron/trustees to set a specific level of capital expenditure above which written approval is required irrespective of the circumstances. The list of items underneath, which is not intended to be comprehensive, is indicative of the types of major repairs or maintenance that require written approval from patrons/trustees:

- Replacement of windows - includes situations where the replacement of windows may be effected over a number of years
- Rewiring of school building

- Re-roofing
- Repairs as a result of dry or wet rot
- Resurfacing of playgrounds or avenues
- Re-plumbing or replacement of heating system
- Works in compliance with Safety, Health and Welfare at Work legislation or Fire regulation.

7.22 In a situation of extreme urgency, it may be necessary for the patron/trustees to grant permission over the telephone for works to be carried out immediately. Where this occurs, the patron/trustees will seek a formal application from the Board of Management and issue a formal response so that there is written record of the approval of the works in question.

7.23 For major items of capital funding such as new buildings, extensions, temporary accommodation, refurbishment or other necessary improvement the Board of Management, **with the prior approval of the patron/trustees**, seeks capital funding from the Department of Education and Skills (DES). Any decision with regard to extending or altering of school buildings or acquisition or sale of school property is a matter for the patron/trustees. Formal application to the DES for capital funding is made by completing the appropriate DES application form which can be downloaded from the website www.education.ie. Works that can be carried out during the summer vacation period are funded, if approved, under the Summer Works Scheme (9).

The National Procurement Service

7.24 The National Procurement Service (NPS) was established by the government to achieve maximum value for money across all public sector bodies. All education institutions in receipt of public funding are entitled to avail of savings negotiated on their behalf by the NPS. An initial agreement has been reached with the NPS for all first and second level schools who are registered to avail of lower electricity prices. Primary schools may register with the NPS online through the CPSMA website while voluntary secondary schools register through the JMB who liaise directly with the NPS. There is no cost involved in registering for procurement.

7.25 There is a legal obligation on any organization which receives 50% or more of its funding from the state to award contracts in accordance with procedures set down in EU Public Procurement Directives. Schools are obliged to comply with EU thresholds when seeking tenders for all purchases; for example a school must seek **three** tenders for items of expenditure such as electricity, IT equipment or hire of buses which exceed €5,000 in any one school year. Where purchases of a particular good or service exceeds €25,000 the Board of Management must advertise on www.etenders.gov.ie and also in the official journal of the European Union where the threshold exceeds €125,000. Among the benefits of registering with the NPS are:

- Participation in the NPS procurement process gives schools a very strong bargaining position with potential suppliers of goods or services
- The NPS process ensures that Boards of Management are complying with their legal obligations when engaging in a competitive process for contracts
- The NPS assists schools to comply with the implementation of national procurement policy

- The more schools that register for national procurement the greater the potential savings for all.

Property

7.26 Administrators or trustees of Church property, which includes Catholic schools and grounds, ensure that legal title to such property is properly safeguarded and updated as necessary. If a situation arises where all of the original trustees of a trust are deceased, this may be brought to the attention of the **Charities Regulatory Authority** (Charity Commissioners) who are in a position to appoint new trustees. Where properties are part of a charitable trust, trustees have regard to the legal nature of their trust and if property is being acquired, leased or alienated appropriate legal advice is sought.

7.27 Advice may be sought from the Charity Commissioners regarding certain aspects of Charitable Trusts. The functions of the Charity Commissioners include the following:

- Where they give advice 'under seal' and trustees of a charity act accordingly, the trustees are indemnified against any loss or damage that might arise.
- They can advise trustees of a charity in respect of any claim by or against the charity.
- They can sue for the recovery of charitable gifts improperly withheld or misapplied.
- They can apply to Court in the event of a delay in the administration of a charitable gift or legacy.
- They may empower trustees of a charity to sell, lease or mortgage charity property and they deal with applications for authorization of sale of charity property.
- They can apply charity property cy-près (i.e. where an original charitable purpose is impossible to perform, the Charity Commissioners can direct that it be applied for a similar purpose). The Charity Commissioners also have the right to frame or approve cy-près schemes - there is now **no limit** in respect of the trust fund that can be applied in a cy-près context.
- They may invest funds held by them on any charitable trust.
- They may appoint new trustees of any charity (10).

7.28 As the Board of Management is acting on behalf of the patron/trustees not only in regard to the education enterprise but also in regard to school buildings and grounds, the Board is obliged to attend to all aspects of securing and maintaining school property. Where the patron/trustees decide to distinguish between school buildings and playgrounds and other property such as playing pitches, the Board of Management is provided with maps indicating the relevant boundaries. The issuing and charging of licence fees for use of school buildings and grounds is a matter for individual trusts, having consulted their legal advisers.
(Cf. par.7.12 above).

Insurance

7.29 Since it is the patrons/trustees who incur loss in the case of damage or destruction of property by fire and who are liable for accidents due to negligence, **all insurance policies must be in the name of the patrons/trustees.** After reviewing the terms of the Insurance Policy each year, the Board of Management pays the premium promptly. In reviewing the policy, the Board may find the following checklist helpful:

- Buildings and contents are insured for loss due to damage caused by fire, smoke, lightning, aircraft, storm, burst pipes – escaping water or oil, flooding, vandalism, rioting
- Breakage of fixed glass or sanitary equipment
- Breakage or collapse of TV aerials
- Theft of lead or copper
- Theft or loss of cash
- Damage to frozen goods
- Accidental damage to audio-visual equipment
- Sudden and unanticipated damage to low pressure hot water units
- Consequential damage.

7.30 Buildings include minor outbuildings, swimming pools, playing surfaces (except synthetic pitches), boundary walls, shrines, gates, paths, fences, lawns, trees and shrubs. Contents include all furniture, audio-visual equipment, computers and office equipment, musical instruments, trophies and fuel.

7.31 The custodian school protection policy or other such policy is recommended as, along with covering school buildings and contents, consequential loss and loss or theft of money, this type of policy also indemnifies patrons/trustees, individual members of Boards of Management and Boards as corporate bodies against any claim by an individual or group. Indemnity in this context refers to legal liabilities and attendant legal costs and damages arising, inter alia, from the performance of their duties by Boards of Management. In effect, a Board, or a member of a Board, who perform their duties in good faith and do not set out to commit a criminal act are indemnified. The custodian school policy covers liability of the school to employees or other persons and the consequences of negligence on the part of persons employed by the school. However, while Boards of Management are indemnified against any legal liability arising from wrongful actions of staff or employees, the individual staff member or employee is not.

7.32 Apart from cover of legal costs incurred in the **defence** of legal actions against a Board of Management, the custodian school protection policy covers certain **legal actions pursued** by a Board. Where such legal action is considered, a Board seeks the approval of the insurance company before initiating the legal proceedings.

7.33 Keeping records of all matters that may lead to insurance claims is very important as is notifying the insurance company of matters that may eventually lead to claims. To familiarise themselves with the many details relating to school insurance, primary school Boards are advised to refer the **CPSMA Handbook** (pp.26 – 33), and voluntary secondary school Boards are advised to refer to the **FSSU Guidelines** (pp.40 – 47).

Use of School Premises by Outside Bodies

7.34 Patrons/trustees and Boards of Management are keen to forge links with local communities and, to that end, many schools make their premises available, outside school hours, to different community groups for a variety of activities. The Department of Education and Skills also places a strong emphasis on school–community links and schools are asked to reflect on the quality of these links in their self-assessment process. In encouraging schools to facilitate access by the community to the school, the patron/trustees may issue guidelines to Boards of Management on legal and financial matters that arise when school premises are

being made available. In particular, the Board of Management is asked to ensure that **no group or club is granted a licence, lease or rental agreement which gives occupancy rights**. No legal agreement regarding rental or leasing school property is reached **before the legal documentation is examined and sanctioned by the patron/trustees**. Before completing letting arrangements, the Board of Management will have regard to the following:

- Full information in writing is obtained from the user-group applying to use the premises
- The user-group is properly constituted - responsible adults who are to take charge of the proposed activities are identified
- The proposed activities will not affect school work in any respect
- The proposed activities terminate at the agreed time
- Letting arrangements do not lead to a net cost to the school – costs relating to wear and tear, cleaning, heating, lighting, insurance and care-taking are recovered
- Commitment to observance of Health and Safety legislation by user-groups
- Commitment on the part of user-groups to adherence of Child Protection Guidelines
- The proposed activities are compatible with the ethos of the school.

7.35 Where a school makes its facilities (sports halls, concert halls, playing pitches etc.) available to a user-group, all reasonable steps are taken to ensure that the school is not liable to any member of the user-group who may suffer damage or injury in connection with the activity of the user-group. Accordingly, Boards of Management adhere to the guidelines cited underneath when making school facilities available to outside bodies:

- The user-group indemnifies the school and trustees against any claim arising from the user-group's activities on school property.
- The school authorities inspect the insurance policy and keep a copy on file.
- The user-group give an undertaking that they will notify the school authorities of any change in its insurance policy.
- The user-group is informed that in the event of the insurance policy falling through during the duration of the letting agreement, permission to use school facilities ceases immediately.
- Where applicable, activities carried out by user-groups on school property comply with taxation legislation.

7.36 While these requirements may appear stringent, experience has shown that they are necessary both for the protection of the school and those in charge of the user-group activity. Many trustees have, in consultation with school insurers, prepared 'letting details' for Boards of Management which, if fully implemented, give appropriate protection to both the school and the leaders of user-groups.

Control of Stock and Assets

7.37 Stock refers to consumable office and classroom goods and materials while assets, in this context, refer to any tangible moveable property acquired by the school which is used on an ongoing basis for more than one year. It is recommended that Boards of Management establish control systems for both stock and assets so that they are protected against loss or misuse. In regard to control of stock, the ideal system is to keep detailed stock records and to

have regular stocktaking procedures in place. Where this is not practicable, in order to protect stock it is necessary to have in place procedures for:

- Requisitioning, ordering, receiving, checking and recording goods inwards
- Restricting access to stock, monitoring usage and taking precautions against theft or misuse
- Arranging for the disposal of obsolete or damaged items
- Monitoring usage in global terms by comparing costs for each category over time
- Monitoring expenditure by each department on a year to year basis.

7.38 Regarding assets, the control system has procedures for:

- Maintaining an Asset Inventory or Register
- Authorisation and purchasing
- Receiving, checking and recording of assets
- Stamping the item with the school name, identifying number and date when first received
- Assigning responsibility for the school's Asset Register, regular checking of items and investigating differences detected
- Securing and maintaining assets
- Movement of items
- Dealing with obsolete items
- Completing an inventory annually of all assets – making appropriate entries and adjustments to the Asset Register
- Submitting the Asset Register for approval by the Board of Management.

7.39 The tangible moveable property which constitute school assets include:

- Furniture items such as desks, tables and chairs
- Audio-visual equipment
- Computer equipment both for administration and educational purposes
- Sports equipment
- Equipment for specialist subjects – Art, Sciences, Technical Drawing, Technology, Home Economics, Woodwork, Engineering etc.
- Photocopiers and telecommunications' equipment
- Library books and classroom reference books
- Garden tools and lawnmowers
- Vehicles.

The above list is not intended to be exhaustive.

Other areas that require Monitoring and Control Systems

7.40 The following areas also require proper control systems:

- **Overdrafts and borrowings** - a Board of Management may not incur overdrafts or other borrowings, including lease purchase or hire purchase, **except with prior written approval from the patron/trustees**. Where cash flow difficulties arise, the

school reviews its spending plans in order to try to avoid going into an overdraft position.

- **Petty Cash** – petty cash transactions follow standard procedures. A petty cash docket is signed for each cash transaction and all petty cash transactions are recorded in a Petty Cash Book.
- **Tendering procedures** – the Board of Management determines the purchase limit of goods or services beyond which tenders will be sought. Normally, three tenders are obtained and are evaluated on the basis of best value for money.
- **Funds generated from activities within the school** – it is important to provide a framework for the protection of all involved. Full and proper records of money collected and spent are kept and legal and taxation requirements, where relevant, are met.
- **Supervised After School Study** – it is the responsibility of the Board of Management to ensure that an appropriate system of control is in place. While a number of different models are currently in use in schools, the Board of Management has a responsibility to ensure that the model being employed complies with all legal requirements - health and safety legislation, insurance policies, income tax and PRSI.

7.41 While it would be impossible for patrons/trustees to oversee the details of financial control systems, they have over-all responsibility for school finance and property. Bearing this in mind, patrons/trustees encourage Boards of Management to follow best practice in all matters relating to control of school finances and property. Patrons/trustees ask Boards to pay particular attention to the following:

- Expenditure in excess of income must be approved by the patron/trustees
- Borrowings, hire purchase or other such contracts which may involve the patron/trustees in a total liability must be approved in advance by the patron/trustees
- An advance budget and audited accounts are sent annually to the patron/trustees
- All school insurance policies are in the name of the patron/trustees
- Where relevant, the Board is responsible for an annual contribution to the patron/trustees to service debts relating to interest, capital or licence fee on the school property
- Only the patron/trustees have power to make decisions relating to **capital expenditure** – decisions relating to extensions, alterations or renovations are a matter for the patron/trustees (11).

7.42 Decisions regarding the status of a school – single sex to co-education, joining the Free Education Scheme or withdrawing from it, closing the boarding section of a school – can be taken only by the patron/trustees.

Chapter 8   Education Trust Companies

8.1 The history of the concepts *patronage* and *trusteeship* has been outlined in previous chapters. While the terms may have had different connotations prior to the Education Act 1998, both terms are now interpreted as having the same significance in so far as governance of schools and education centres recognised by the state are concerned. However, in day to day usage among those involved in the governance and management of Catholic schools, the term *patron* is associated with the diocesan bishop who is regarded as exercising *patronage* of all the primary schools and diocesan second level schools in his diocese. The fact that the diocesan bishop is seen as the person with ultimate responsibility for these schools can obscure the fact that many of them also have trustees – in the case of many traditional convent/monastery primary schools trusteeship continues to be exercised by religious congregations or Education Trusts that have replaced them. Trusts also exist for diocesan property which includes school buildings and grounds and, while practices vary from diocese to diocese, the trustees are usually senior members of the clergy.

8.2 Apart from the diocesan colleges, *trusteeship* is the term used to describe the governance exercised by real or nominal owners of other voluntary secondary schools. As stated previously, the term *trustees* seems to have come into popular usage only with the establishment of Community schools in the 1970s and the involvement of religious congregations in joint trusteeship of these schools. Prior to the 1970s, the identification of religious congregations with the schools they owned was so close that terms such as *trusteeship, ethos and founding intention* had not become part of the educational lexicon (1). When Boards of Management were established and the influence of the parish priest or the local religious superior became somewhat diluted, the concepts of patronage and trusteeship took on a new significance.

8.3 The debate on education issues in the 1990s, the duties of patrons/trustees as set out in the Education Act and the changes in the constitution of Boards of primary schools led to renewed reflection and self-evaluation on the part of patrons and trustees. One of the outcomes of the self-evaluation process has been to look at legal instruments that would enhance the exercise of patronage and trusteeship both in terms of the Catholic education enterprise and safeguarding the property and other temporalities that support the enterprise. In that context, many dioceses, religious congregations and lay owners have formed incorporated trust companies.

Incorporation Theory

8.4 An **incorporated** trust or charity has a legal personality which is separate from its members but has the legal capacity to do many things that a natural person can do. It has, for example, the right to own property, enter into contracts and assume obligations and liabilities but it remains separate to and independent from its members. Incorporation also means that a trust will continue as a separate legal entity even though its membership changes. In an **unincorporated** charity, the trustees, i.e. the canonical administrators in the case of diocesan, convent and monastery schools are a body of people acting together but who do not, in civil law terms, form a separate legal entity. They have the right to enter into contracts and sign loans as individuals but, as a consequence, carry the risk of personal liability. As an unincorporated charity cannot own property in its own name, property has to be held in the names of trustees.

8.5 A**s** a general rule, incorporated charities are constituted as companies limited by guarantee and not having a share capital. This means that the members do not buy shares in the company but agree to contribute a sum of money (the guarantee) towards the debts and liabilities of the company up to a nominal amount - usually about €1 - in the event of the company being wound up. If the company goes into insolvent liquidation, the extent of the members' liability is the nominal amount stated in the Memorandum of Association of the company. The Memorandum and Articles of Association of the company include an 'asset lock' which precludes members from withdrawing value from the company for their own benefit. It is important to note that while members' liability is limited to the nominal sum of money (the guarantee) stated in the Memorandum of Association, the company remains responsible for all its debts and liabilities. (2)

8.6 When an existing unincorporated charity decides to become incorporated as a company, it is necessary to form and register a new company with the Companies' Registry Office (CRO). It is also necessary to register as a new company charity with the Charities Regulatory Authority as the new company will usually have a different charity registration number. Preparing for incorporation as a company requires careful planning, including consultations with accountancy and legal advisers. Among the factors requiring consideration are:

- Governance arrangements for the new company
- Objects to be included in the company's Memorandum of Association
- Rules, powers and rights to be included in the company's Articles of Association
- Method to be used to transfer assets from the unincorporated charity to the new company charity
- Ongoing contracts that need to be transferred to the new company
- Identifying any leasehold or freehold interests that need to be transferred to the new company
- Identifying links that remain between the parish, diocese or religious congregation and the new company and setting out protocols regarding these links
- Identifying service providers, statutory bodies and others who may need to be informed of the new company.

8.7 Service providers and statutory bodies need sufficient advance notice of the new company's commencement date in order to make the necessary adjustments to their systems. Such providers and statutory bodies include (not intended to be an exhaustive list):

- Department of Education and Skills
- Revenue Commissioners
- Bank – new bank account will reflect incorporated status
- Anyone with whom the new company has a formal lease or contract
- Independent auditors
- Pension scheme providers
- Data Protection Authority.

8.8 Despite the close identification of incorporation with the business world, incorporation and the world of Catholic education or advancement of religion are not mutually exclusive.

Incorporated companies operate within the context in which they are created. In the case of patronage or trusteeship of Catholic schools, the objects and governance structures of the incorporated trust must conform to Canon Law.

Models of Religious and Education Trust Companies

8.9 Different models of trusts for religious and educational purposes have come into existence in Ireland over the past fifteen years. Many diocesan trust companies relate to the totality of Church property within the diocese – churches, presbyteries, church land, school buildings and accompanying playgrounds and/or playing pitches. As stated previously Canon Law obliges canonical administrators to secure the temporalities that support the Church's mission (3). Incorporation of previously unincorporated trusts gives added security to Church assets and lessens the personal liability of canonical administrators. While some diocesan trust companies may not make specific reference to the enterprise of Catholic education in their Memorandum and Articles of Association, the over-all religious purpose of the trust will be stated or implied.

8.10 With regard to education trust companies established by religious congregations, different models can be identified. The **des Places Educational Association** (**DEA**), founded by the Religious Congregation of the Holy Spirit and the Immaculate Heart of Mary (Holy Ghost Fathers), retains strong links with the congregation - all of the company members being members of the provincialate or congregation. The **DEA** trust is responsible for the Catholic education enterprise but school buildings, playgrounds and playing pitches remain in the ownership of the Holy Ghost congregation. Similarly, the **Loreto Education Trust** established by the Irish Province of the Institute of the Blessed Virgin Mary (the Loreto Sisters) has provincial leaders and members of their congregation as members of their trust Company. In the Articles of Association of both the **DEA** and the **Loreto Education Trust** it is stated that no other person is admitted to become a member of the company unless that person '**is a person whom the Provincial Superior of the Congregation/Institute in Ireland in consultation with the Irish Provincial Council shall nominate and admit to membership**' (4). As in the case of the **DEA**, the **Loreto Education Trust** is responsible for the Catholic education enterprise, but property remains in the ownership of the Loreto Sisters. There are protocols in place which delineate the areas of competence and responsibilities of province and company. As both the **DEA** and the **Loreto Education Trust** are acting in a delegated capacity for the leadership teams of their Irish provinces, the company members and directors of these trusts can be regarded, in Canon Law terms, as canonical administrators of a specific aspect of the mission of Public Juridic Persons – their respective religious congregations.

8.11 Another model of incorporated trusteeship which has emerged is where a number of religious congregations have come together to form a single education trust company, for example **Catholic Eduction an Irish Schools Trust** (**CEIST**) and **Le Chéile**. The religious congregations involved in establishing **CEIST** are the Sisters of Mercy, the Presentation Sisters, the Sisters of the Christian Retreat, the Missionaries of the Sacred Heart and the Daughters of Charity. The Articles of Association of **CEIST** identify the members of the Company as '**those persons who from time to time are the Provincial leaders (or their nominees being members of the Congregations) for the time being of their Congregations; up to two members of the Episcopal Conference and up to six lay persons**'.(5) The members of the company **CEIST** and the Board of Directors are the trustees of the Catholic education enterprise but the temporalities – buildings, grounds and

aspects of finance - are held in the trusteeship of a different company, **EDUCENA**. The Members of **EDUCENA** are the provincials of the congregations involved in **CEIST** – there are no lay people (6). **CEIST** has been recognised as an ecclesiastical Public Juridic Person in accordance with Canon Law by the Irish Episcopal Conference.

8.12 The **Le Chéile** Education Trust Company represents a coming together of 14 religious congregations – Cross and Passion Sisters, Patrician Brothers, Poor Servants of the Mother of God, Dominican Sisters, De la Salle Brothers, Sisters of Christian Education, Holy Faith Sisters, Sisters of Jesus and Mary, Faithful Companions of Jesus, Sisters of St. Louis, Sisters of St. Paul, Society of the Holy Child Jesus, St. Joseph of Cluny and the Ursuline Sisters. The register of members of the company **Le Chéile** comprises two members of each congregation and two nominees of the Boards of management of each of the voluntary secondary schools in the Trust. While the Le Chéile Trust is working towards becoming an ecclesiastical Public Juridic Person, the process has not yet been completed. Similar to **CEIST**, the members and directors of **Le Chéile** are the trustees of the education enterprise but trusteeship of property is the responsibility of a separate Trust Company called **Síol.** The members of **Síol** are two representatives of each of the religious congregations involved in **Le Chéile.**

8.13 The **Edmund Rice Schools Trust (ERST)** established by the Christian Brothers and the **Presentation Brothers Schools Trust (PBST)** established by the Presentation Brothers reflect yet another model of trusteeship. They are both incorporated companies and recognised by decree of the Irish Episcopal Conference as ecclesiastical Public Juridic Persons in accordance with Canon Law. When a new ecclesiastical Public Juridic Person is being established Statutes of Foundation or Canonical Statutes are submitted for approval to the appropriate ecclesiastical authority. **ERST** and **PBS**T differ from the other trusts established by religious congregations in the following respect: there is no stipulation in their Articles of Association that any of the members of the Company will be members of the religious congregations that established the trusts. In the case of ERST, playing pitches remain in the ownership of the congregation but the Holy See has authorised the transfer to ERST of the majority of school buildings, properties and grounds immediately adjacent to the schools, without recompense, in accordance with the provisions of canons 638 – 639 of Canon Law. The Presentation Brothers have entered into a long term lease arrangement with PBST regarding use of school buildings, grounds adjacent to schools and playing pitches.

8.14 The Mount Anville Sacred Heart Education Trust Limited has been founded as a registered company to undertake the trusteeship of Mount Anville Secondary School and Mount Anville Junior Preparatory school. To facilitate the transition to lay people becoming members, the Trust has been established as an ecclesiastical Public Juridic Person. Lay Catholic schools that have formed Trust companies include St. Conleth's College and Junior school in Dublin, Regina Mundi and Scoil Mhuire secondary schools in Cork.

Educational Philosophy Statements and Charters

8.15 One of the aspects of preparing for incorporation is that it concentrates the mind of those involved in the process on the objects of the new trust company. Dioceses, religious congregations and lay owners will reflect on what aspects of their educational missionary tradition they want to conserve and how their particular 'spirituality' or charism will be expressed in the new context. In the Memorandum of Association of each of the education trust companies to which reference has been made above, the main object is '**to ensure and foster the advancement of education and to further the aims and purposes of (Roman)**

Catholic education . . .'. This main object is set in the context of the traditions and ethos associated with the founding intention of the school or network of schools.

8.16 Charters setting out the religious and educational philosophy of the trust companies are appended to their Memorandum and Articles of Association. Among the educational goals and ideals expressed in these charters are:

- Emotional and social development - recognising the uniqueness of each student and helping students to develop self esteem and respect for others
- Spiritual, moral and aesthetic development – nurturing Christian Spirituality and Gospel-based values – developing the creative potential of students and promoting a sense of the aesthetic
- Development of a sense of community – promoting partnership in the school community based on a tangible spirit of Christian care, respect and concern for all of its members and reaching beyond the school community in a spirit of solidarity to fellow human beings in the global community – promoting care for the natural environment
- Promoting excellence in teaching and learning – encouraging all members of the school community to realise their holistic potential and to strive for excellence
- Openness to the Spirit and seeking to act justly and responsibly – seeing justice as a fundamental value which is the basis for solidarity with those who are powerless and marginalised
- Helping students to experience the sacramentality of life – not only through participation in the sacramental life of the Church and other rituals but also seeing God at work in the life of the school community and in the life of the individual person
- Inspiring transformational leadership in all members of the school community – school leaders articulating a vision for their schools and encouraging ownership of the vision among all of the education partners
- Preparing students for further education and a career.

8.17 The charters are substantial documents which include résumés of the lives of congregation founders and the fruits of processes discerning the relevance of the ideals and charisms of these founders in the contemporary context. In the case of two of the Education Trusts, the charters have been described as providing '**the guiding principles against which each school community measures its mission, performance and priorities' (7)** and '**the norms by which members, directors, boards of management, staff, students and parents measure their mission, performance and priorities**'. (8) How to make the charter or the religious and educational philosophy statement specific to the individual school has been discussed in Ch. 5. (9).

Relationship between Members and the Board of Directors

8.18 The Memorandum and Articles of Association form the 'corporate constitution' of a company. While the Memorandum of Association is the dominant document and its provisions prevail in any conflict with the Articles, the Articles of Association are the rules by which the members of the Company agree to be bound. Corporate governance is divided between the members in General Meeting and the directors acting as a Board. As root or residual authority is vested in the members in accordance with the Companies Acts 1963 to 2009, the members of a Company are entitled to appoint the Board of Directors. (10)

8.19 While members delegate most of their power to the directors, the members' powers may resurface where the Directors exceed their delegated authority or where they are in breach of their duties as set out in the Articles of Association. Notwithstanding the retention of certain powers in General Meeting by the members, the Board of Directors are deemed to have the important powers of governance. Retention of powers by the members in General Meeting may pertain to important matters such as:

- Dismissal or suspension of members and/or directors
- Amendment or alteration to Memorandum and Articles of Association
- Amendment to charter or religious and educational philosophy statement
- Sale, transfer, mortgage or encumbrance of property or other financial transactions which exceed a certain agreed amount
- Amalgamation or closure of schools
- Significant change in the use of property or education facilities operated, owned or controlled by the Company.

8.20 General Meetings consist of the Annual General Meeting (AGM) and Extraordinary General Meetings (EGMs). All General Meetings other than the AGM are called EGMs. An AGM requires 21 days notice in writing while an EGM requires 14 days notice in writing. No business may be transacted at General Meetings unless and until the required quorum has been reached. The Company may in General Meeting appoint any person to be a director either to fill a casual vacancy or as an additional director. Likewise, the Company may appoint another person to replace a director who has been removed from office in accordance with the Articles of Association.

Functions of the Board of Directors

8.21 It is a matter for the diocese, private owners, religious congregation or group of congregations who are about to establish a Trust Company to set out in the Articles of Association the functions to be accomplished by the Board of Directors. Directors, as a general principle, owe duties of care, skill and diligence to their Company (11). As the new Company will now be trustees of the educational enterprise, it will be the responsibility of the Board of Directors not only to attend to all of the aspects of patronage/trusteeship set out in the Education Act 1998 and Articles or Deeds of Management but also to act in compliance with Company Law, the Law of Trusts and the Charities Act 2009. The functions of the Board of Directors may include:

- Establishing strategies, policies and procedures that are in accordance with the charter and the religious and educational objects set out in the Memorandum of Association
- Providing leadership and determining the strategic direction and goals of the Company
- Putting control mechanisms in place to safeguard the Company's assets and resources
- Ensuring that the Company behaves ethically at all times and in a manner consistent with its core values
- Supervising the over-all management of the Company's activities, ensuring good management and monitoring management performance

- Undertaking at regular intervals (3- 5 years) an evaluation of the performance of the Company by reference to the attainment of the main objects and to the promotion of the ideals outlined in the charter or religious and educational philosophy statement
- Sanctioning major developments and projects
- Agreeing and monitoring budgets
- Defining and promoting the Company's role in the education system
- Commissioning, promoting and taking ownership of the results of research projects
- Engaging in two-way communication with school communities in an accountable and transparent manner
- Developing a co-ordinated approach to communications with Government Departments, statutory bodies, trustee and management associations, trade unions and other relevant organizations
- Setting up an Education Trust Office and appointing suitably qualified personnel to attend to the day to day functions of the Company.

8.22 Regular meetings of the Board of Directors are required so that good corporate governance is achieved. The matters outlined above will be very much part of the agenda for these meetings. Before reflecting on the principles of good corporate governance, it is appropriate to examine the roles of officers and committees in a Company structure.

Officers and Committees

8.23 In order to fulfil their duties of care, skill and diligence to their Company, Directors need officers and committees to co-ordinate over-all strategy and attend to the many tasks the Company has to accomplish. While the Company Secretary is the only legally required position for companies limited by guarantee, the custom and practice of having other officers is usually reflected in the Company's Articles of Association. The Articles set out the core functions to be exercised by these officers – Chairperson, Vice-Chairperson, Treasurer/Finance Officer, Board Secretary, Company Secretary, Chief Executive/Education Officer. The functions set out underneath in respect of the various officer positions are not intended to be exhaustive.

Chairperson of the Board of Directors

8.24 The responsibilities of the chairperson include:

- Chairing meetings of the Board of Directors
- Setting the agenda for meetings and concentrating on strategic matters
- Providing leadership and ensuring the effective operation of the Board
- Ensuring that orders and resolutions of the Board are implemented
- Ensuring that directors receive accurate, timely and clear information to enable the Board to make sound decisions
- Ensuring effective communication with the members of the Company
- Allowing sufficient time for discussion of critical, complex or contentious issues
- Encouraging and facilitating participation of each member of the Board
- Liaising with the Company Secretary in providing a comprehensive induction programme for new directors
- Liaising with the Company Secretary in regard to the development needs of Board members with a view to enhancing the Board's effectiveness

- Leading the self evaluation process in respect of the performance of the Board as a whole, committees of the Board and individual directors
- Working closely with the Chief Executive/Education Officer
- Liaising with other Education Trusts and education bodies and ensuring affiliation to the ATCS.

Vice-Chairperson

8.25 The main role of the Vice-Chairperson is to act on the Chairperson's behalf in cases of illness or inability to act. The Vice-Chairperson may also assist the Chairperson between meetings by attending to specific tasks, for example chairing committee meetings or attending to personnel matters.

Company Secretary

8.26 The Company Secretary has both statutory duties and duties that may be specified in the Articles of Association, such as:

- Ensuring (with the directors) that the requirements of the Companies' Acts are complied with by the Company
- Ensuring that any change in the address of the Company's registered office is notified to the CRO
- Keeping the Company's lists of all members and directors up to date
- Notifying the CRO of any change in director, Company Secretary or home address of same within 14 days
- Ensuring that all legal agreements and contracts are properly agreed by the directors and kept in a safe place
- Ensuring that due notice is given, in accordance with the Articles of Association, for the AGM and EGMs
- Notifying the CRO within 15 days of any changes to the Memorandum and Articles of Association
- Ensuring that an independent auditor is appointed at the AGM
- Ensuring, in conjunction with the Treasurer/Finance Officer, that the accounts are properly prepared and audited
- Sending the annual return to the CRO by the due date and keeping copies of all annual returns and accounts.

Board Secretary

8.27 The main function of the Board Secretary is to record the minutes of every meeting of the Board in books provided for this purpose. The Board Secretary sees to it that minutes of each meeting are sent to the directors within 14 days of the meeting and that the agenda for the forthcoming meeting is with the members at least 7 days in advance of that meeting. In some companies, the functions of Board Secretary are carried out by the Company Secretary.

Treasurer/Finance Officer

8.28 The role of the treasurer/finance officer is to administer the finances and accounts of the Company in accordance with the Articles of Association. The treasurer/finance officer will

work in harmony with the Finance/Audit committee in strategic planning of finances, preparing budgets and preparing the annual statement of accounts.

Chief Executive/Education Officer

8.29 Apart from the general responsibilities set out in the Articles of Association, detailed specifications for the role of Chief Executive/Education Officer will normally be circulated to candidates who apply for the position when it is advertised. It will be a matter for each Trust Company to give serious consideration to what other paid officials they will need to support the work of the Chief Executive/Education Officer and whether these paid officials will become members of the Board as Executive Directors. As some dioceses and religious congregations already had education offices in place prior to the establishment of Education Trust Companies, these offices have, in some instances at least, become the headquarters of the new Trusts.

8.30 The Chief Executive/Education Officer is the person charged with the running of the education office and overseeing the work of all of the paid personnel. The day to day work of patronage/trusteeship is exercised from the education office; hence the Chief Executive/Education Officer and other paid officials form the executive arm of the Board of Directors. Lines of communication and accountability between the Board of Directors and the Chief Executive and staff of the education office require detailed specification and regular evaluation.

Types of Committees

8.31 The Board of Directors may set up both permanent and ad hoc committees as it sees fit. The Board determines the composition of the committees and may appoint a Board member as Chairperson of a particular committee. Where a Chairperson is not appointed by the Board of Directors, the members of the committee may appoint a Chairperson.

8.32 Committees may be appointed to assist the work of the Board of Directors in areas such as: implementation of charter and ethos; finance and property; school governance and management. The Chairperson of any such committee ensures that the Board of Directors receives a report of the proceedings of the committee. All committees, whether permanent or ad hoc, act in accordance with the Articles of Association.

Principles of Good Governance

8.33 A number of organization have worked together to prepare a **Code of Practice for Good Governance of Community, Voluntary and Charitable Organizations in Ireland.** (12) The aim of this Code is to provide a benchmark of good governance against which organizations and people who sit on boards can measure themselves. The Governance Code is based on **five principles**, each with three sub-sections. Depending on the size of the organization, each subsection may have further sub-divisions. While the main principles are regarded as relevant for all organizations irrespective of size, the sub-sections and sub-divisions of the sub-sections may depend on the number of personnel employed by the organization. The authors of this Governance Code recognise that apart from the greater level of regulation required by the **Charities Act 2009**, the community/voluntary/charitable sector must maintain the trust and confidence of those providing funds by demonstrating that they are following best practice in governance.

8.34 In adopting the Code: **Principles of Good Governance**, the Directors of an Education Trust Company commit to:

1. **Providing leadership for their organization** by:

   - Agreeing their purpose, vision and values and ensuring they remain relevant and valid
   - Developing, resourcing, monitoring and evaluating a plan to make sure that their organization achieves its stated purpose
   - Managing, supporting and holding to account staff, volunteers and all who act on behalf of the organization.

2. **Exercising control over their organization** by:

   - Identifying and complying with all relevant legal and regulatory requirements
   - Ensuring that there are appropriate internal financial controls
   - Identifying major risks for their organization and deciding ways of managing these risks.

3. **Being transparent and accountable by:**

   - Identifying those who have a legitimate interest in the work of their organization (stakeholders) and making sure that there is regular and effective communication with them
   - Responding to queries or views of stakeholders about the work of the organization and its governance
   - Encouraging and enabling those who benefit from the organization in the planning and decision-making of the organization.

4. **Working effectively** by:

   - Ensuring that their governing body, individual Board members, committees, staff and volunteers, where applicable, understand their role, their legal duties and their delegated responsibility for decision-making
   - Ensuring that as a Board of Directors they exercise their collective responsibility through Board meetings that are efficient and effective
   - Ensuring that there are suitable Board development, recruitment and retirement processes in place.

5. **Behaving with integrity** by:

   - Adhering to high standards of honesty, fairness and independence
   - Understanding, declaring and managing conflicts of interest and conflicts of loyalties
   - Safeguarding and promoting their organization's reputation.

8.35 Larger Education Trusts who, having accepted or adopted the **five main principles** of Good Governance, decide to go into greater detail regarding the sub-sections cited above may

wish to visit www.governancecode.ie where each sub-section under the five main principles is sub-divided. For example, under **sub-section three** of **Providing Leadership for the Organization**, there are five sub-divisions dealing with managing, supporting and holding staff to account:

- Delegating responsibility for the implementation of Board-approved HR policies and employment contracts to the Chief Executive/Education Officer
- Delegating responsibility for job description and staff supervision to the Chief Executive/Education Officer
- Agreeing the job description of the Chief Executive and setting performance expectations on an annual basis. Agreeing mechanisms for Chief Executive or Education Officer to report to the Board
- Ensuring that formal arrangements are set up for the ongoing supervision and development of the Chief Executive/Education Officer and that an appraisal is carried out at least once a year
- Delegating responsibility for volunteer policy to the Chief Executive/Education Officer.

8.36 A further example of the details provided in the aforementioned website is the elaboration of **sub-section one** under **Working Effectively**. This sub-section, which has to do with the Board of Directors, individual directors, committees and staff understanding their respective roles and responsibilities, sets out what working effectively in their particular contexts entails:

- Ensuring that the Board induction process includes an overview of the role of the Board and individual Board members, the Governance Code and the organization's governing documents
- Ensuring that Board members understand that they may act independently in a personal capacity in promoting the aims of the organization in accordance with its governing documents. However, in acting as a Board member, a Director must at all times respect Board confidentiality
- Reviewing Board roles periodically, agreeing terms of reference of sub-committees and reviewing annually – Company Secretary to ensure that any changes are in line with governing documents. Changes to Memorandum and Articles of Association to be reported to the CRO
- Ensuring that there is a copy of the schedule of matters reserved to the Board in the Board handbook
- Ensuring that there is a written statement of the division of responsibilities between the Chairperson and the Chief Executive incorporating the latter's delegated authorities
- Ensuring that Board members do not interfere in duties delegated to staff but holding staff to account through the Chief Executive
- Requesting all Board members, at the time of their appointment, to sign a code of conduct and terms of reference setting out their fiduciary duties, statutory obligations and the organization's expectations of Board members (13).

8.37 If an Education Trust Company decides to adopt the **Governance Code**, the Company is invited to self-select from four organisational-types the set of implementation guidelines most appropriate to its profile. Having chosen the appropriate implementation guidelines, the

Company will benchmark itself against the standards outlined in the guidelines 'on a comply or explain' basis. Where an organization is not in a position to complete a specific action as outlined in the implementation guidelines, an explanation is offered. When a Company provides this explanation, it ensures its compliance with the over-all Code. The **Code of Practice for Good Governance** is not intended to be a governance or management guide but rather to become the standard definition of good practice that will inform the standards required by fund providers and the **Charities Regulatory Authority.**

School related Matters Reserved to the Board of Directors

8.38 In earlier chapters the functions of patrons and trustees have been discussed while this chapter has been devoted to exploring the extra-dimensions that becoming incorporated as an Education Trust Company brings to the exercise of patronage and trusteeship. Having underlined the importance of complying with Company Law and ensuring best practice in governance, it may be helpful at this point to re-focus on practical school related matters where decision-making, after consultation with persons or bodies who are party to the relevant issues, is reserved for the Boards of Directors (and patrons/trustees generally). These matters include:

1. **Status of a School**

   - Change from single-sex category to co-education or vice versa
   - Change in language medium of teaching
   - Change from day school category to boarding school or vice versa
   - Change by way of initiation or termination of infant school department in a Primary School
   - Change of a second level school from participation in the free education scheme to fee-paying category or vice versa
   - Amalgamation or closure of schools
   - Opening new schools or initiating educational projects.

2. **Property**

   - Permission to Management to proceed with an extension to a school
   - Permission to Management to proceed with major refurbishment of a school
   - Leasing of land or facilities
   - Granting licences of properties to Management
   - Approving insurance policies for the Company/Trust and the schools
   - Approval of capital development (property).

3. **School Finance**

   - Approval of budgets, loans or deficits
   - Approval of special financial support
   - Approval of capital development (financial).

4. **School Management**

   - Appointing or dissolving Boards of Management of Schools

- Appointment or dismissal of Managers
- Adjudicating on matters referred to the Board of Directors by the Board of Management.

5. School Policies

- Determining policies required for the schools
- Approving policies prepared by schools.

The Education Trust Company and Spiritual Capital

8.39 A question which the members and directors of Education Trust Companies may wish to address is the extent to which the focus of their particular Trust corresponds to the new forms of trusteeship envisioned by members of CORI and others over a decade ago. It is interesting to note that, whether or not they are still closely attached to the religious congregations that established them, the new forms of trusteeship have followed the Business Company model in their foundation documents and structures. There is little doubt that the Memorandum and Articles of Association, involving compliance with Company Law, give rigour and structures to the exercise of trusteeship that may not have existed previously. Setting out the purposes of the Trust Company in the Memorandum of Association and repeated references to the charter, or religious and educational philosophy statement, mean that there is no dilution in the articulation of the founding intention of the school or network of schools.

8.40 However, just as the religious congregations who established the Trust Companies took radical steps, these Trusts too must seek to envision the future in a radical way. In following the Business model in their structure, Education Trust Companies will do well to reflect on how excesses associated with the Business model have contributed to the perceived crisis in today's capitalism. Writing some years before the current turmoil in the business world, Danah Zohar referred to her belief that the capitalism of the late twentieth century was unsustainable:

"Like a monster eating its own flesh, business is destined to consume its own resources, then itself". (14)

8.41 Zohar cited six major reasons why business-as-usual was not sustainable: **finite resources** – we are arrogantly presuming that the world's resources are infinite, in today's practices; **environmental damage** – global warming, pollution, extreme weather patterns; **deepening inequality** - breeding poverty, crime, family breakdown, political instability; **leadership crisis** – more idealistic people want to serve others leaving a critical shortage of great leaders in the business world; **short-term thinking** – maximising short-term share-holder value and not looking at the bigger picture; **human factor** – mistaken notion that human beings are primarily economic creatures. (15)

8.42 In the face of these stark realities, Zohar and Marshall seek to broaden the understanding of *wealth* and *capital.* The term *spiritual capital* is used to embrace this broader understanding - an understanding which transcends monetary wealth and sees profit as emanating from the wealth of the human spirit, from a deep sense of meaning and a sense of higher purpose.(16) It is this deep sense of meaning and sense of higher purpose that give people the motivation to serve something larger than themselves – families, communities, students, employees, customers, humanity, the environment, future generations and life

itself.(17) From a business perspective, solvency and profit can leave room for maximising meaning, service, quality of life, health, enjoyment of work, for amassing 'not merely material but also social and spiritual capital and thereby contributing hugely to the common well-being and self-organising creativity of life on earth'. (18) In embracing the Business model, Education Trust companies have the opportunity to proclaim, in a new and radical way, the spiritual depths that terms such as *wealth* and *capital* can have if interpreted in a truly human context.

8.43 Although Zohar is not writing from a specifically religious perspective, there is significant congruence between her view of service to humanity and that of Thomas Groome (19) who refers to the irony of living at a time when the impoverished of our world are struggling for the right to life while the affluent have increasing difficulty in finding reasons for living. Groome says that the Christian is challenged to bring the Good News to both groups. The source of Groome's *spiritual capitalism* – a term he does not use - is the New Testament and, perhaps, all involved in the apostolate of Christian education will be both challenged and inspired by his following summation of **Christian Religious Education**:

"To summarize, we must relate to the people we educate as subjects who are capable of being engaged in history to shape it in the direction of the Kingdom. As we attempt, in the ministry of Christian religious education, to represent Christ in service to the community, it is a ministry of the Word and of incarnating that Word. The substance of our teaching act consists of a threefold responsibility: to make present the Story, to propose its Vision, and to choose life in the present. Being aware to some extent of my own bias, I will avoid claiming that education is the most important ministry in the Christian community. But I do claim that it is second to none". (20)

Notes

Chapter 1

(1) Catholic Schools Partnership, **Catholic Schools in the Republic of Ireland – A Position Paper**,16.

(2) Schedule 2, Article 2, **European Convention on Human Rights** 2003.

(3) James Casey, **Constitutional Law in Ireland** (2000), 655.

(4) Cf. reference to **Crowley v Ireland** (1980), Supreme Court judgement, in James Casey, op. cit., 655-656.

(5) Cf. The Catholic University of America, (publicaffairs.cua.edu/RDSpeeches/05ArchbishopMillerKeynote.cfm), Keynote Address by Archbishop J. Michael Miller, C.S.B. – **The Holy See's Teaching on Catholic Schools** (2005), 2.

(6) Studies, Summer 1994, Michael J. Farry, **Education and the Constitution**, p.178.

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(5) Cf. Ch. 1, pars. 1.34 – 1.40.
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