

Frequently Asked Questions (FAQs)

Governance changes

What are the new governance arrangements?

The new governance arrangements will see schools owned by the Archdiocese, its parishes or associations of parishes in the Archdiocese of Melbourne transferred to a new company called Melbourne Archdiocese Catholic Schools Ltd (MACS), which will be responsible for the governance and operation of the schools.

Why now?

The changes follow the Australian Catholic Bishops Conference (ACBC) acceptance of Recommendation 16.6 from the Royal Commission into Institutional Responses to Child Sexual Abuse that: 'The bishop of each Catholic Church diocese in Australia should ensure that parish priests are not the employers of principals and teachers in Catholic schools.'

The changes also align with the Victorian government requirement for organisations providing services to children to be appropriately insured and incorporated. This requirement is scheduled to take effect in funding agreements for Catholic schools from 1 January 2021.

What happens if a school does not become incorporated?

Approximately 18% of annual recurrent government funding on average for schools, the Victorian government component, would be lost and the school would need to account for this. This would either see a substantial rise in fees or an immediate reduction in services, including the number of teachers the school could employ, likely making the school unviable. They would also not be able to participate in state capital grants or targeted programs such as the recently announced additional funding for tutors

Transition process

What is the process?

In September, Archbishop Peter A Comensoli sent a letter and information pack to all parish priests, parish administrators and priests formally associated with secondary colleges established by parishes, outlining the next phase of the governance changes for schools owned by parishes in the Archdiocese of Melbourne and schools owned by the Archdiocese itself.

The next phase involves moving forward with the recommendations recently outlined in the Position Paper prepared by the School Governance Steering Committee. It includes the completion of the two key processes that together form the transition of governance arrangements for schools:

- i) the signing process of two agreements – the *School Transition Agreement (STA)* and the *Right to Use Land and Buildings Agreement (RULBA)* – between Melbourne Archdiocese Catholic Schools Ltd (MACS) and parishes
- ii) the request for information (RFI) process with schools.

What does a priest need to do during the transition process?

Priests are asked to:

- attend a series of information sessions in allocated groups, providing further detail about the transition documents
- work through the documentation, seeking support if needed
- engage the parish council finance committee as appropriate while considering the agreements
- discuss the agreements with the principal and/or business manager of their school to agree and document school areas, parish areas and common areas
- sign the two agreements (STA and RULBA) with MACS. The completion of the agreements with MACS and the RFI will ensure that we have in place the documents necessary for the school to transition to the new governance arrangements, thus allowing it to continue to be a vibrant and flourishing Catholic learning community into the future.

Should I consult my parish council finance committee?

Yes. While the committee does not need to approve the STA and RULBA, it is important for the parish to be informed and to engage in the process.

What support is there?

In addition to the Zoom information sessions and the follow-up consultation sessions, a helpdesk service has been established to address specific individual requirements. Details are as follows:

- phone: 9267 0320
- email: governance@cem.edu.au
- website: <https://governance.melbourne/contact/>.

Documentation and guidance for completing and returning the agreements are available at: <https://governance.melbourne/transition-documents/>.

Transition issues

Will the transfer of operation to MACS mean the school will enrol non-Catholics in greater numbers?

The Archdiocese will continue to provide a Catholic education for Catholic families who wish their children to be educated in a Catholic school. Recognising the archdiocesan enrolment policy as a guideline, priests and principals need to work closely together to develop and implement enrolment processes according to local need. All parents of students (whether Catholic or otherwise) must accept and support the Catholic identity of the school as a condition of enrolment. Catholic schools will continue to respect the diversity of our students and their families without compromising the Catholic mission and identity of the school.

The schools remain an integral part of the parish's mission which cannot be taken from the parish by MACS. MACS is responsible for the governance of the schools, consistent with the MACS constitution and Statement of Mission therein. As a ministry of the parish, the Catholic school participates in the evangelising mission of the Church and this needs to be at the forefront of thinking when enrolling students. The *Working Together in Mission* Charter clearly confirms the responsibility of the parish priest and principal by virtue of their roles to ensure that Catholic mission and identity are paramount in the life of the school.

Will there be a rental return on buildings the school will be using?

This is an important matter. It has been agreed nationally by the Australian Catholic Bishops Conference (ACBC) that no diocese should introduce school rent or other land charges until such time as every effort has been made to reach agreement with the relevant state government and the Australian Government. As a consequence, MACS and the Catholic Archdiocese of Melbourne (CAM) have agreed that a nominal usage fee of \$1 should be put in place for the first three years while we endeavour to seek an agreement with key stakeholders (including state and Australian governments) to introduce a more appropriate rental arrangement – one that is fair, affordable and has regard for local circumstances.

What happens to school building funds operating at many of our schools once the new company is established?

All active school building funds that are attached to a school's Australian business number (ABN) will transition to MACS. The balances in all school building funds that attach to a parish ABN will also transition to MACS. MACS will have separate endorsements in respect of each school building fund. This will mean that all schools with a school building fund going forward will have to issue receipts with MACS' ABN after the transition.

However, the balances in each school building fund on transition and any future donations will continue to be applied by each school solely for the purposes of that school. This position does not change by the school building funds moving under MACS' ABN. All schools with an active school building fund or that wish to set up a new school building fund will be provided with simple, standard rules governing the operation of the school building fund in accordance with Australian Taxation Office (ATO) requirements. There will be further communication to schools regarding school building funds.

The usage agreement seems to include for-profit child care. Is that the case?

MACS will only operate not-for-profit childcare facilities. As MACS must operate as a not-for-profit company, any generated surplus has to be reinvested within the operations of the schools. MACS will not be involved in a competitive childcare business for its own sake; however, the provision of early childhood facilities in a Catholic context is permitted, but only as a not-for-profit activity. In addition, included in the RFI process is a request for each school to include all agreements associated with outside school hours care (OSHC) programs. As part of the follow-up to this process, the finer details of the arrangements in each school can be clarified and any necessary transition arrangements agreed between the parish priest and MACS.

Will the school retain its ABN or will it operate under a MACS ABN?

In practical terms, school finance practices will largely operate as they have. Each school will be considered a sub-entity of the company. It is envisaged that each school will retain its current ABN, along with current bank accounts, loan servicing, etc. Operating as a sub-entity means parents will still be able to view in a transparent manner their school's financial statements, which show the separate details for each school.

Completing the agreements

What happens if I don't complete and sign the agreements by my Group's target signing date?

If you are not able to meet the target completion date, please contact us directly to discuss your individual needs.

Transition documents: STA

What is the *School Transition Agreement (STA)*?

The *School Transition Agreement (STA)* is a contract developed between each parish and MACS regarding the transition of each school's assets (except land and buildings) and liabilities to the company. Examples of school assets include receivables, equipment, books, furniture and computers, while examples of liabilities include accounts payable, bank loans and employee liabilities.

Will the ownership of land change while transferring the operation of the school to MACS?

The ownership of land and buildings does not and must not change as a result of the governance reform, meaning that the parish must retain ownership of property purchased by the parish. In isolated cases, land or portable buildings may have been purchased using school funds and the regulator will require these assets to be transferred to MACS.

What is the impact of transferring the operation of the school to MACS?

Once the transfer is signed, MACS will bear all responsibilities and obligations in respect of:

- buildings, loans, maintenance and repairs, including replacement of buildings in the event of damage, payment of property taxes, levies, insurance premiums, leasehold agreements and any works of a capital nature
- finances and liabilities of the school's operations generally
- capital funding from federal and/or state governments.

Transition documents: RULBA

What is the *Right to Use Land and Buildings Agreement (RULBA)*?

The *Right to Use Land and Buildings Agreement (RULBA)* records a right of use arrangement on a long-term basis, under which MACS is the occupant that assumes all obligations and responsibilities ordinarily imposed on the landlord. The relevant parish priest(s) provides a right to MACS to use the land and the buildings that relate to the school operation.

The RULBA formalises a priest's permission for MACS to continue operating the school on parish land and understandably to continue using the school buildings on a long-term basis. Confirming the right to use is necessary to evidence to the government and government regulators that MACS can be registered as the school proprietor and that the school can be entitled for capital grants in the future to improve its facilities.

Under this agreement, parish priests retain the ownership of the land and buildings in the stable patrimony of their parish. Still, they will be relieved from any responsibilities in relation to the school, and the land and the buildings it utilises. This agreement also addresses the arrangements for those school

sites that have shared use of facilities, and will record the terms agreed between the parish priest and MACS through an attached schedule.

What purpose does the RULBA serve?

The RULBA is necessary in order for MACS to be able to demonstrate to government regulators that it has a long-term entitlement to use the land for the provision of Catholic education. This is particularly important for government funding purposes which require this evidence before a school can be supported with capital grants. The RULBA is also important so that all legal obligations and responsibilities that attach to the owner of land and buildings can be formally transferred to MACS; that way, parish priests can be assured that no such liabilities will ever become a burden for the parishes.

What arrangements will be required for the use of shared facilities?

Arrangements for the use of shared facilities at each parish and school site will need to be carefully discussed and formalised in the RULBA using the *Key Principles for the use of Parish and School Facilities* developed by Catholic Education Melbourne and CAM as their foundation.

These guidelines acknowledge that funding for the construction and maintenance of shared facilities has, and continues to be, derived from a variety of sources, including parishioner donations and government and school maintenance grants. Each site has its own context.

What is the usage fee referred to in the RULBA?

The RULBA includes provisions that a usage fee is payable by the school for use of the land on which the school is operating. The fee is nominal (\$1) for the first three years of the agreement.

The usage fee can be changed by agreement between MACS and the Roman Catholic Trusts Corporation (RCTC). There is an expectation that MACS and the RCTC would carefully consider a range of factors before the usage fee is increased, including the reasons mentioned in the agreement (taking into account the needs and viability of the school and the parish, and the views of regulatory authorities).

Why has a usage fee been included?

It makes sense to include the potential for a usage fee and for the ability to increase the usage fee as the agreements will be in place for many years. Catholic schooling is an apostolic work of the parish, and parishes have made land available – in some cases for more than 150 years – with no usage fee.

Governments (state and federal) already fund on average 90% of parish primary school operations and Catholic commissions have argued strongly that families should not or cannot pay significantly higher fees for schooling. Hence, any usage fee would need to be modest and sourced from school fee receipts.

In the future, financial reporting requirements will include the need for such usage fees to be disclosed or reported on as a related party transaction.

What happens to parish levies in the future?

Parishes will still be able to ask schools to include a voluntary parish levy in school fee issuing and collection processes. As now, the levy will remain voluntary.