



Queensland Catholic Schools Not-for-Profit Guidelines

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1 PURPOSE OF THE GUIDELINES

Schools are eligible to receive government funding support only if they are operated on a not-for-profit basis.

The *Australian Education Act 2013* specifies that Australian Government funding can only be provided to a not-for-profit entity. Section 26 of the *Australian Education Regulation 2013* sets out matters to be taken into consideration in determining whether a school or school governing body is operated on a not-for-profit basis.

These matters include:

- a) the financial policies and practices of a school
- b) use of funds derived from or relating to a school
- c) not-for-profit status granted under other legislation, such as the *Australian Charities and Not-for-Profits Commission Act 2012*.

Similarly, Queensland Government funding can only be provided in respect of a school that is not operated for profit. Section 7 of the *Education (Accreditation of Non-State Schools) Act 2001* states:

A school is not operated for profit only if any profits made from the school's operation are used entirely to advance the school's philosophy and aims, as stated in the school's statement of philosophy and aims.

The *Education (Accreditation of Non-State Schools) Act 2001* also prohibits financial arrangements that are not on a commercially equivalent basis. Section 7A states that:

A prohibited arrangement is a contract or arrangement entered into by a school's governing body or proposed governing body and a for-profit entity not dealing with each other at arm's length.

The purpose of these guidelines is to assist school governing bodies and schools in understanding the requirements of operating on a not-for-profit basis, both in terms of policy documentation and financial arrangements put in place. A comprehensive understanding of such requirements is essential if eligibility for government funding is to be retained.

Throughout the guidelines the generic term 'school' is used to cover responsibilities and actions at school sites, as well as those of the incorporated entity accredited to operate the school/s. This entity is the accredited school governing body under the *Education (Accreditation of Non-State Schools) Act 2001*. Ensuring not-for-profit operation is the legal responsibility of the school governing body, as is the obligation of repayment of all government funding should this requirement be breached.

2 NSW GUIDELINES

Following amendments to the NSW *Education Act 1990* strengthening not-for-profit requirements for non-government schools, the NSW Department of Education published guidelines in September 2015 specifying how schools should ensure compliance. These guidelines provide a level of detail concerning financial transactions and arrangements that mean they are able to function as useful benchmarks and indicators of not-for-profit compliance more broadly. Given this, sections of the guidelines that are relevant to Queensland non-government school circumstances are included in this document as a guide for schools and school governing bodies. Excerpted sections of the guidelines are reproduced under the Creative Commons Attribution 4.0 International Licence, with attribution to the State of New South Wales through the NSW Department of Education © 2015.

Excerpts:

3 DEMONSTRATING COMPLIANCE

In general, schools will be able to demonstrate compliance by ensuring appropriate financial controls and systems are in place, and that financial transactions are transparent and at market value. Section 4 of these guidelines describes in more detail what reasonable market value means in the context of financial transactions carried out by schools. Evidence that conflicts of interest are being appropriately managed in relation to school operations is also a key component in minimising the risk of non-compliance.

These guidelines provide examples of the types of documentary evidence that schools can reasonably be expected to have available in the event of an audit. The examples are not exhaustive and will depend on the particular circumstances of the school. However, they are intended to serve as a best practice guide.

Schools already maintain a set of records to meet other legislative and regulatory requirements (such as those of the Australian Tax Office, the Australian Charities and Not-For-Profits Commission and the Australian Securities and Investment Commission) and as part of internal school management practices. In many cases schools will be able to use existing records to demonstrate compliance with the not-for-profit requirements.

4 WHAT IS REASONABLE MARKET VALUE?

Reasonable market value can be broadly defined as the amount that a knowledgeable and willing third party would pay for a specific good or service in an arm's length transaction from the seller.

This value may be influenced by a range of factors, including the circumstances surrounding the specific transaction. For example, the reasonable market value of urgent school maintenance work may be higher than routine maintenance as the work may need to be completed at short notice or outside of ordinary business hours.

Factors that may influence the reasonable market value of goods and services purchased by schools include:

- a) the quantity, quality and consistency of provision of the good or service
- b) the location and context of the school
- c) if the good or service is required urgently, at short notice or must be completed within a specified timeframe (for example, school holidays)
- d) if the good or service is in short supply at the required standard
- e) heritage or related issues (in relation to building and related works)
- f) local government requirements.

5 COMMON TRANSACTIONS

The purpose of this section is to provide non-government schools with guidance on complying with the not-for-profit funding requirements when carrying out common financial transactions.

It is the responsibility of schools to ensure that they have developed appropriate procurement policies and practices that are consistent with legislated not-for-profit requirements. Schools should also ensure appropriate records are kept to substantiate compliance in the management of their financial affairs. Examples of relevant records and policies that could be used by schools to demonstrate compliance for each transaction are included below. However, the transactions and relevant records listed below are not exhaustive.

5.1 Payments to Individuals

5.1.1 Employee Salaries, Benefits and Severance Packages

Schools are free to exercise discretion in the employment of school staff. This includes determining reasonable employee salaries and benefits, as well as recruiting specific staff to further an academic, educational, co-curricular or extra-curricular focus of the school.

Level of employment remuneration should reflect relevant industrial legislation, awards and registered Enterprise Bargaining agreements, while taking into account formalized incentive schemes. As noted in Section 4, reasonable market value may also reflect individual school circumstances.

All schools should implement internal controls that are appropriate within the context of the school to ensure accountability regarding employee-related payments.

Requirement

Employee salaries and benefits must be:

1. required for the operation of the school
2. at no more than reasonable market value
3. reasonable in the circumstances, having regard to the fact that financial assistance is provided to the school.

With reference to point 2 above, the school governing body has discretion to determine the market in which the school operates and to set appropriate salaries according to that assessment. For example, salary packages sometimes include the use of school-owned vehicles or other equipment (such as a mobile phone or laptop). Packages may also include sabbatical and study leave, and attendance at conferences. These types of benefits should be documented in individual employment contracts and retained on file at the school.

What records or policies could my school have to demonstrate compliance?

Records and policies that may assist schools to demonstrate compliance in relation to employee related payments include:

- a. an employment contract or letter of offer for each school employee
- b. a written job description for each school employee
- c. personal policies and procedures that address matters such as staff leave, overtime, allowances, reasonable personal use of school assets and the recording of staff attendance, that are appropriate within the context of the school
- d. evidence of employee payroll payments being authorized by the school Principal or another responsible person
- e. written authorisation from all school employees to deposit salaries directly into the employee's nominated bank account
- f. an appropriate policy for managing conflicts of interest and to ensure probity and accountability
- g. appropriate records to support employee-related payments in addition to salary such as severance packages or bonuses, including documented reasons for payment.

5.1.2 Payments to School Governing Body Members

Schools that receive government funding must not pay remuneration to members of school governing bodies in connection with their role on the school governing body.

Schools are permitted to reimburse school governing body members for reasonable expenses incurred as a necessary part of conducting school business, however reimbursed expenses should be supported by appropriate documentation.

Members of school governing bodies who also hold a paid role within the school or school authority, such as a school principal, teacher, director or finance officer, should be remunerated exclusively in relation to their employment within the school or school authority and not their position on the school governing body. Section 5.2.3 *Consultants and Professional Services* and Section 7 *Related Party Transactions* may also be relevant here.

Alternative governance or management structures which are used to circumvent the prohibition of payment to governing body members will be considered non-compliant.

Non-cash gifts of nominal value may be provided to school governing body members at the discretion of the school (for example, on retirement as recognition of service to the school).

Requirement

Schools must not pay remuneration of any kind to school governing body members in connection with their role on the school government body.

Payments may only be made by schools to school governing body members to reimburse a member for a payment made in connection with the operation of the school.

What records could my school have to demonstrate compliance?

Records that may assist schools to demonstrate compliance in relation to payment to school government body members include:

- a. receipts for all purchase by school governing body members who have been reimbursed by the school
- b. documented reasons for all reimbursed purchases
- c. an employment contract and/or statement of duties for any other paid role in the school held by school governing body members in accordance with *Employee salaries, benefits and severance packages* in 5.1.1 above.

5.2 Payments for Property, Goods and Services

5.2.1 Purchasing Goods and Services

Schools should ensure that procurement policies and practices comply with the not-for-profit requirements specified by government. Schools retain discretion to allocate resources in order to support a school mission or ethos. Schools should ensure that the level of documentation is commensurate with the significance of the purchase. For example, minor purchases such as small stationery items may not need to be documented if the quantity is small and the cost low. However, payments should be reasonable.

On the other hand, major purchases should as best practice be based on the evaluation of three quotes. Where valuations are required, this work should be carried out by a suitably qualified external person.

Requirement

Property, goods and services purchased by schools must be:

1. required for the operation of the school
2. at no more than reasonable market value for the property, goods or services
3. reasonable in the circumstances, having regard to the fact that financial assistance is provided to the school.

What records or policies could my school have to demonstrate compliance?

Records and policies that may assist schools to demonstrate compliance in relation to school purchases include:

- a. a school purchasing manual that includes policies and procedures for testing the market value of purchases at different cost thresholds (including testing existing relationships) appropriate within the context of the school
- b. a school credit card policy that outlines procedures for the allocation and use of school credit cards, regular acquittal of school credit card expenditure by a responsible person for the school who is not the cardholder, and the submission/retention of purchase receipts
- c. appropriate records detailing all payments made by the school, including supplier invoices to support all school purchases (records for minor purchases/incidentals of nominal value such as pens may not be required)
- d. appropriate records of quotes and/or tenders obtained for the purchase of property, goods or services by the school in accordance with the school's procurement policy
- e. appropriate records of goods and services purchased by the school being certified as received prior to or close to supplier payment
- f. appropriate records authorizing school payments by a responsible person for the school.

5.2.2 Building and Related Works

Schools may exercise discretion in constructing and maintaining built assets required for the operation of the school. Useful benchmarks of facilities provision can be found in the published *QCEC Capital Program Guidelines*.

In the context of building and related works, reasonable market value may be influenced by a range of factors including timeliness, the quality of the building finish and materials, and the availability and reliability of contractors.

Where payments are made for building and related works, schools should ensure that they can readily substantiate that work of that value was completed at the school. For new buildings, this may include retaining copies of relevant planning approvals and construction certificates.

Requirement

Building and related works paid for by schools must be:

1. required for the operation of the school
2. at no more than reasonable market value
3. reasonable in the circumstances, having regard to the fact that financial assistance is provided to the school.

What records could my school have to demonstrate compliance?

Records that may assist schools to demonstrate compliance in relation to payments for building and related works include:

- a. written quotes for all building and related works (excluding routine maintenance work) that appropriately detail the scope of works obtained in accordance with the school's purchasing manual
- b. appropriate records supporting all payments for building and related works made by the school (including all supplier invoices), in accordance with *Purchasing Goods and Services* in 5.2.1 above
- c. appropriate records supporting any payments for building and related works that could be considered unusual for any reason (for example, work to heritage listed buildings or land remediation)

New Building and Other Substantial Works

Where applicable:

- a. copies of the development consent or "stamped plans"
- b. copies of the construction certificate and/or occupation certificate.

5.2.3 Consultant and Professional Services Fees

Schools may engage the services of consultants and other professionals from time to time to provide advice in relation to school projects or operations. Engagements of this nature must be required for the operation of the school and reasonable in the circumstances.

Requirement

Consultants and professional services paid for by schools must be:

1. required for the operation of the school
2. at no more than reasonable market value
3. reasonable in the circumstances, having regard to the fact that financial assistance is provided to the school.

What records could my school have to demonstrate compliance?

Records that may assist schools to demonstrate compliance in relation to payments for consultants and professional services include:

- a. appropriate evidence of the market value of the professional services being tested in accordance with the school's purchasing manual (or equivalent) prior to the engagement of the relevant consultant or expert
- b. a copy of a services agreement or contract detailing the nature of any professional services provided by consultants or experts to the school, including an estimate of the total expected cost
- c. appropriate evidence that any professional services paid for by the school were received, such as copies of any reports or other documents produced by the relevant consultant or expert.

5.2.4 Intellectual Property

Intellectual property refers to the legal protection of ideas and creative works, such as books, films and other educational materials.

Where schools wish to purchase intellectual property, it must be required for the operation of the school and reasonable in the circumstances, having regard to the fact that financial assistance is provided to the school.

Requirement

Intellectual property purchased by schools must be:

1. required for the operation of the school
2. at no more than reasonable market value
3. reasonable in the circumstances, having regard to the fact that financial assistance is provided to the school.

What records could my school have to demonstrate compliance?

Records that may assist schools to demonstrate compliance in relation to the purchase of intellectual property include:

- a. appropriate evidence of the intellectual property supplied to the school, such as a copy of the licence agreement or assignment document.

5.2.5 School Borrowings and Interest Payments

Schools may exercise discretion in borrowing money and obtaining other finance required for the operation of the school. This includes obtaining finance from a bank of the school's choice and determining the type and structure of finance most appropriate for the school. The commentary in Section 4 in relation to reasonable market value is also applicable to the terms and conditions of school borrowings.

Requirement

School borrowings must be:

1. required for the operation of the school
2. at no more than reasonable market value
3. reasonable in the circumstances, having regard to the fact that financial assistance is provided to the school.

What records could my school have to demonstrate compliance?

Records that may assist schools to demonstrate compliance in relation to school borrowings include:

- a. formal agreements to support all school borrowings and other finance taken out by the school
- b. evidence that the terms of any borrowing, including rate of interest and total fees, are comparable with general market expectations and availability, and that this comparability has been tested to the degree practical
- c. appropriate documented reasons to support any school borrowings or other finance with a combined rate of interest and fees that could be considered unusually high given the type of loan, security provided, loan valuation ratio or other relevant circumstances.

5.2.6 School-Related Travel

Schools can exercise discretion in paying for travel expenses required for the operation of the school. However schools should develop a school travel policy. This may include paying for teachers or other school employees to attend training, professional development or relevant conferences, provision for sabbatical or study leave; the terms of which should generally be specified in the individual's employment contract.

Personal travel must not be paid for by school funds unless included as an employee benefit in accordance with an industrial award or agreement, or employment contract or equivalent that complies with *Employee Salaries, Benefits and Severance Packages* in 5.1.1 above.

Requirement

Travel-related expenses paid for by schools must be:

1. required for the operation of the school
2. at no more than reasonable market value
3. reasonable in the circumstance, having regard to the fact that financial assistance is provided to the school.

What records or policies could my school have to demonstrate compliance?

Records that may assist schools to demonstrate compliance in relation to school-related travel payments include:

- a. policies and procedures for the payment of school-related travel expenses, including appropriateness of different categories of travel, e.g. economy, business class
- b. appropriate evidence that all travel expenses paid for by the school were required for the operation of the school and not personal in nature
- c. appropriate evidence that all travel expensed paid for by the school were approved by the school principal or another responsible person for the school
- d. where a travel allowance forms part of the salary package of a school employee, an employment contract or equivalent detailing the nature of the allowance in accordance with *Employee Salaries, Benefits and Severance Packages* in 5.1.1 above.

5.3 Other Common Payments and Financial Transactions

5.3.1 Compensation and Other One-Off Payments

It may be necessary from time to time for schools to make compensation or other one-off payments to individuals or groups, for example, to settle a public liability claim or an employment matter.

Where compensation or other one-off payments are made, schools should ensure that payments are consistent with any orders, instructions or recommendations given by a relevant Commission or Court, where applicable.

Requirement

Compensation and other ex-gratia payments made by schools must be:

1. required for the operation of the school
2. at no more than reasonable market value (where applicable)
3. reasonable in the circumstances, having regard to the fact that financial assistance is provided to the school.

What records or policies could my school have to demonstrate compliance?

Records that may assist schools to demonstrate compliance in relation to compensation and other ex-gratia payments include:

- a. appropriate legal documentation supporting any compensation or related payments made by the school (such as a copy of a deed of settlement)
- b. appropriate records detailing the reasons for any compensation or other ex-gratia payments made by the school
- c. policies and procedures to support any routine compensation or other ex-gratia payments made by the school.

5.3.2 Student Scholarships and Cash Prizes

Schools may exercise discretion in making reasonable payments to students in connection with cash prizes, scholarships and related activities. Opportunities to participate in such activities should be published to the whole school community.

What records or policies could my school have to demonstrate compliance?

Records and policies that may assist schools to demonstrate compliance in relation to student scholarships, cash prizes or equivalent such as vouchers include:

- a. policies and procedures supporting any student scholarship or cash prize routinely awarded by the school
- b. appropriate records supporting any payments made by the school in connection with a student scholarship or cash prize, including that the payment was authorized by a responsible person within the school.

5.3.3 Student Fee Concessions and Remissions

Schools may exercise discretion in offering student fee concessions or remissions to existing or prospective students of the school. Access to making application for such concessions and remissions should be available to the whole school community.

What records or policies could my school have to demonstrate compliance?

Records and policies that may assist schools to demonstrate compliance in relation to student fee concessions or emissions include:

- a. policies and procedures supporting any student fee concessions, remissions or other adjustment to fees and charges offered by the school.

5.3.4 Dealing with Doubtful Debts

Schools may consider writing off or selling doubtful debts (where legally allowed) in accordance with a policy or procedure for dealing with doubtful debts that is appropriate within the context of the school.

What records or policies could my school have to demonstrate compliance?

Records and policies that may assist schools to demonstrate compliance in relation to doubtful debts include:

- a. a policy or procedure for writing-off or selling doubtful debts (where legally allowed) appropriate within the context of the school
- b. appropriate records supporting all doubtful debts written-off or sold by the school, including records of authorisation by a responsible person for the school.

6 MANAGING SCHOOL ASSETS

While it is a requirement that school assets only be used for the operation of the school, it is also common practice for schools to have various arrangements for the community or shared use of school assets and facilities, such as halls and playing fields. This has been encouraged by past government programs such as the Building the Education Revolution grants scheme. The purpose of this section is to provide guidance to schools on complying with not-for-profit requirements in the context of managing school assets.

The examples listed below are not exhaustive. However, schools should adhere to all mandatory requirements below to ensure compliance.

It is the responsibility of schools to ensure that appropriate records are kept to substantiate compliance with the not-for-profit requirements in the management of school assets. Examples of relevant records and policies that could be used by schools to demonstrate compliance are listed below.

6.1 Disposal of Valuable School Assets

Schools may only dispose of valuable school assets at reasonable market value. In some cases, reasonable market value may be less than the asset's book value, particularly where there is limited demand for the school asset being disposed.

Whether a school asset is valuable will depend on the circumstances. For example, school computers approaching the end of their useful life will generally not be considered valuable school assets. However, a new desktop computer still in its original packaging would be considered a valuable school asset.

Requirement

A School operates for profit if any part of its proprietor's assets (as they relate to the school) is used for any purpose other than for the operation of the school.

What records or policies could my school have to demonstrate compliance?

Records and policies that will assist schools to demonstrate compliance in relation to the disposal of valuable school assets include:

- a. a school asset register listing the details of all school assets above a nominated value appropriate within the context of the school
- b. appropriate evidence of annual asset stocktakes being completed by the school or evidence of other review of valuable assets being conducted by the school in line with the normal annual audit process
- c. policies and procedures for disposing or writing-off valuable school assets
- d. appropriate records supporting the disposal or write-off of any valuable school asset, including that the disposal or write-off was approved by a responsible person within the school.

School Asset Register

It is suggested that school asset registers include:

- a. a description of the asset
- b. the serial number of the asset if applicable
- c. the date and cost of purchase of the asset
- d. the invoice number of the purchase
- e. the date and method of disposal (if applicable)
- f. any amount recovered at disposal (if applicable).

6.2 Leasing Property and Other Assets (school as lessee)

Schools may exercise discretion in entering into leases for property and other assets that comply with not-for-profit requirements.

Requirement

Leases and similar arrangements entered into by schools as the lessee must be:

1. required for the operation of the school
2. at no more than reasonable market value for the property of assets
3. reasonable in the circumstances, having regard to the fact that financial assistance is provided to the school.

What records could my school have to demonstrate compliance?

Records that may assist schools to demonstrate compliance in relation to the leasing of property and other assets required for the operation of the school include:

- a. a formal written lease agreement for all school leases and similar arrangements
- b. evidence of the market value of the lease being tested.

6.3 Leasing School-Owned Property and Assets

Schools may lease school-owned property or assets to third parties. This may include leasing the school canteen or uniform shop to a private operator.

Where a school receives a non-financial benefit from the lease of school-owned property or assets to a third party (such as the school canteen), it is acceptable for the lease arrangement to be on terms that are reasonable in the circumstances. Other lease arrangements entered into by schools, such as the leasing of a school-owned investment property, should be at no less than reasonable market value.

Requirement

A school operates for profit if any part of its proprietor's assets (as they relate to the school) is used for any purpose other than for the operation of the school.

What records or policies could my school have to demonstrate compliance?

Records and policies that may assist schools to demonstrate compliance in relation to the leasing of school-owned property and assets include:

- a. a formal lease agreement (or equivalent) supporting all leases of school property and assets
- b. evidence of the market rent of leased property and assets being tested prior to the school entering into a lease agreement for the property or assets in accordance with relevant school policies and procedures
- c. evidence that the terms of the lease are reasonable in the circumstances where the lease is for the benefit of the school.

6.4 Community Use of School Assets and Facilities

Community or shared use of school assets and facilities is at the discretion of the school. This may include allowing a local swim school to hire a school swimming pool for the delivery of community swimming lessons, or sharing a school lawn mower with a church or religious group affiliated with the school.

Schools may exercise discretion in determining whether it is appropriate in the circumstances to charge a fee for any reasonable community or shared use of a school asset or facility.

The use of school assets or facilities for community or shared use will generally be considered reasonable if the school can terminate use of the school assets or facilities by the relevant group or person at short notice, without incurring a financial or other penalty under a formal agreement (or equivalent); and the school ordinarily has access to the relevant assets or facilities for exclusive use during school hours.

Requirement

A school operates for profit if any part of its proprietor's assets (as they relate to the school) is used for any purpose other than for the operation of the school, apart from appropriate community or shared use of school assets and facilities at the absolute discretion of a school.

What records could my school have to demonstrate compliance?

Records that may assist schools to demonstrate compliance in relation to the community use of school assets and facilities include:

- a. relevant correspondence or formal agreement setting out the terms and conditions for use of the school assets or facilities
- b. a formal lease agreement (or appropriate documentation) consistent with *Leasing School-Owned Property and Assets* in 6.3 above to support any use of school property or assets that is not reasonable community use.

7 RELATED PARTY TRANSACTIONS

In the context of a school, a related party transaction includes any transaction through which a responsible person acting on behalf of the school provides a financial or other tangible benefit to a related party. This may include a cash or in-kind payment to a related party for any purpose, including in connection with the supply of property, goods or services to or by the school.

For the purposes of these guidelines, a related party includes (but may not be limited to):

- a member of the school governing body, principal or other responsible person in the school
- a close relative of a member of the school governing body, principal or other responsible person in the school
- any company or other entity that owns, controls or has significant influence over the school or vice versa (for example, parent entities, subsidiaries or agencies of the school's proprietor)
- any for profit or not-for-profit organisation affiliated with the school (for example, affiliated religious groups)
- a company or other entity owned (wholly or partly) by any of the above
- a company or other entity under the control or significant influence of any of the above
- any third party otherwise acting in concert with any of the above.

The requirements below should be closely adhered to by schools when engaging in a related party transaction to ensure compliance.

Any significant related party transaction carried out by a school should also be approved by the school's governing body.

Requirement

Any payments or other benefits provided by school to related parties must be:

1. for property, goods or services required for the operation of the school
2. at no more than reasonable market value for the property, goods or services
3. reasonable in the circumstances, having regard to the fact that financial assistance is provided to the school.

Other laws and regulations may also apply to related party transactions carried out by schools (for example, under charities law). The requirements above do not limit the operation of any other laws that may apply in a school's specific circumstances.

8 FINANCIAL SERVICES

8.1 Banking Facilities

Catholic schools typically utilise the services of Catholic Development Funds (CDFs) for the purpose of depositing and borrowing funds. It is important that the arrangements in place between schools and CDFs can be seen to be broadly comparable to banking facilities available from other commercial providers.

In assessing this, consideration should be given to how deposit and lending rates compare to those generally on offer. A deposit rate below what other financial institutions are offering, or a lending rate above the going market rate, could be seen as a transference of funds out of education to other non-education uses. Yet the full context of the financial services being provided needs to be taken into account for a valid assessment to be made, rather than a sole focus on rates. For example, a commercial bank may offer a lower borrowing rate, yet as a matter of course require refinancing of the loan every five year period. A CDF, on the other hand, may have a marginally higher borrowing rate yet provide loan terms of ten or twenty years without a requirements to refinance, therefore delivering in fact a lower effective borrowing rate. Other positive advantages of CDFs may be low-document lending, continuity of a stable financial relationship and in-depth understanding of the functioning environment that Catholic schools operate in.

Requirement

Schools must ensure that the banking arrangement into which they enter are conducted on a commercially equivalent basis.

What records could my school have to demonstrate compliance?

Records that may assist schools to demonstrate compliance in relation to accessing appropriate banking facilities include:

- a. evidence of market testing of banking services being accessed
- b. evaluation that full range of services being provided delivers value and cost effectiveness.

8.2 Insurance

As with banking services, the conditions on which schools purchase insurance must be justifiable in commercial terms. That is, premiums and coverage should be in line with prevailing market expectations. Where an insurance company is a related entity, such as Catholic Church Insurance (CCI), full probity and transparency of quotation and procurement must be maintained.

In a similar way to the assessment of banking facilities, insurance provision should be considered in the totality of what is being offered. This would include level of service, understanding of school contexts and insurance coverage for such areas as historical child abuse which may not be covered by other insurers. Informed by a thorough consideration of these type of factors, the insurance cover selected should be commercially competitive while addressing the specific needs and situations of schools.

Requirement

While schools have the discretion to purchase insurance cover meeting their specific requirements, this decision must also be based on transparent commercial criteria.

What records could my school have to demonstrate compliance?

Records that may assist schools to demonstrate compliance in relation to the purchase of insurance include:

- a. evidence of evaluation of different insurance options
- b. assessment of how well coverage addresses particular situation and requirements of school.

8.3 Interest

A school may earn interest on government funding provided for education purposes. Similarly, a school authority operating multiple schools may utilise aggregated government funding, when not in immediate use, to secure interest via short term deposits.

Interest earned on government funding must only be used for its specified purposes. In accordance with the *Australian Education Regulation 2013*, school funding can be expended on appropriate administration expenses. Individual government funding programs typically provide direction and guidance as to the use of interest earned on funds for the program. It is important that schools comply with these directions. Diversion of interest on education funding to activities unrelated in any manner to education could potentially impact upon a school's not-for-profit status.

Requirement

The use of interest earned on government education funding must comply with all stipulated use requirements.

What records could my school have to demonstrate compliance?

Commercial practice should be transparent and appropriately documented, and the interest on funds paid for education purposes should be retained for those purposes.

9 RELATION BETWEEN SCHOOLS AND CHURCH ENTITIES

9.1 Charges to Schools

The circumstances under which a charge or fee may be made to a school by a parish or Congregation/Order are limited and not recommended as best practice. The transfer of school funding to purposes of a non-education nature is grounds for the removal of all government funding support to a school.

In respect of facilities, a rent or lease arrangement may be problematic. Since the 1960s, at nearly all school sites, the construction, refurbishment or maintenance of facilities has involved the use of some component of government funding. The Australian or State Governments retain equity in many school buildings. Each school site is different in terms of the value and conditions of government grants applied, therefore each site needs to be looked at individually.

In respect of services, fees may only be charged if a genuine service is being provided on a commercially equivalent basis. For example, a parish or Congregation/Order may charge an 'administration fee' if it actually carries out administrative work for a school. Any such charge must be at reasonable market value.

Requirement

Any charges must meet two tests. The good or service must be provided for a school purpose and the charge for the good or service must pass the reasonable market value test.

What records could my school have to demonstrate compliance?

Records that may assist schools to demonstrate compliance in relation to parish or Congregation/Order charges include:

- a. evidence that a good or service is in fact being provided in exchange for the payment
- b. evaluation that the charge or fee is at a reasonable market value.

9.2 Differential Fee Arrangements

A parish primary school could set one fee level for students whose parents participate in the parish planned giving program and a higher fee level for students whose parents do not participate in planned giving. In this instance the enrolment of students and the fee charged by the school are contingent on whether the parents are making payments to the parish which may be the ultimate owner and operator of the school. Legal advice has concluded that this arrangement would not be consistent with conditions on school funding and the requirement for schools to operate as not-for-profit entities. Arguably in this hypothetical instance the school is being used by the parish to distribute a profit to the parish.

There are circumstances in which voluntary donations to the parish can be legally and legitimately solicited, but they must not be related to a 'promise' of school enrolment or to the fee levels being charged by the school. All income of the school must be applied for the purposes of the school in order for the school to be operating in accordance with funding conditions. This includes parental fees and private income raised for the school.

Requirement

School fee and enrolment policies must not be used to direct funds to other than school purposes.

What records could my school have to demonstrate compliance?

Records that may assist schools to demonstrate compliance in relation to ensuring school fees are used only for school purposes include:

- a. documented policies and procedures dealing with fee concessions and adjustments as stated at item 5.3.3.
- b. clear demarcation between school and parish financial arrangements (see Appendix 1).

9.3 Religious Congregation Groupings

Congregational schools may establish mini systems or a federation of schools to provide services and to maintain charism of the order. The schools might pay a per capita fee to be part of the federation. These fees would be likely to be in addition to levies paid to diocesan system authorities for services provided to all schools within the system. These fees might be substantially higher than system per capita levies for a diminished suite of services and may not be transparent in many instances to school communities. The fees and costs may not be benchmarked against any credible reference.

It could be argued that these fees are being used to support other areas within a religious congregation and are excessively high for the services provided. If this were the case, this may breach the not-for-profit requirements imposed as a condition of school funding.

Requirement

Religious congregational grouping arrangements must not be structured to divert funds to non-school activities.

What records could my school have to demonstrate compliance?

Religious Congregations should examine their practices to ensure they comply with relevant Federal and State legislation. Independent expert advice may be sought as part of this assessment.

9.4 Revenue from School Facilities

School facilities such as halls are typically constructed using a combination of government grants and school loan funds. Once constructed, a school will use the facility during school hours and pay outgoings such as maintenance, cleaning and utilities. In this situation, there could be a decision that income derived from the hall from non-school use, including weekend and large function hire, will be allocated to the parish

It could be argued that the parish, because it is not paying the associated costs, including interest on debt and outgoings, is securing a profit from the school hall which has been part funded by government for school use.

Requirement

The revenue from after-hours use of school facilities should be retained by schools for school purposes.

What records could my school have to demonstrate compliance?

The receipt of external income derived from the after-hours use of school facilities should be recorded in school accounts.

9.5 Separate Financial Arrangements

Typically, Catholic schools enjoy close relationships on many levels with parishes and Religious Congregations and Orders. Compliance with statutory not-for-profit requirements does not mean that these relationships and connections need to be broken. Rather financial arrangements and dealing between the parties must be on a transparent and commercially justifiable basis. A useful resource in this area is the document *Archdiocese of Brisbane: The Administration of Parish School Assets*, which sets out approaches to managing this area in a collaborative and respectful manner, with 'Congregation' or 'Order' able to be substituted for 'parish' where applicable.

The document can be assessed at:

<http://www.bne.catholic.edu.au/aboutus/Collaborating-for-Mission/Pages/default.aspx>).

10 REVIEW

The guidelines will be reviewed three years from the endorsement date.

The guidelines were endorsed by the Commission on 12 September 2016.