

D PROPERTY OWNERSHIP ISSUES 6 Sale of Church Buildings / Land (SYN)

Sale and Purchase (including manses), Letting of church premises and Third Party Use

(N.B. Minimum requirements, responsibilities on churches to provide ministerial housing and tenancies of manses are dealt with in the Manses Section of these Guidelines. Sale and purchase of Manses are dealt with in this section as the procedure and legal requirements are the same as that for other church buildings.)

Introduction:

1 Almost all land and buildings owned by local churches of the URC are vested in the Trust Company for the relevant Synod. In the case of the North Western Synod, therefore, the title to all land and buildings is vested in the United Reformed Church (North Western Province) Trust Limited (the Trust). This is because local churches do not have a legal identity of their own and, thus, can not hold title to property in their own right and the title must be vested in trustees on its behalf. The Trust holds title as custodian trustee (and, as such, has the conduct of any legal proceedings in relation to that property (in close consultation with the church Elders of course).

2 The Elders' Meeting of the local church in question is the charity trustee and as such, has the responsibility for the day to day running and management of the property. Any sale proceeds, rental etc will be payable to the local church and not the Trust (which does not hold any funds at all in its name). If, however, the church fellowship is closing and the congregation cease to be a worshipping congregation of the URC, then the sale proceeds will form part of the general funds of the Synod. (Church closure and sale of church buildings as a result thereof is dealt with in a separate section of these Guidelines.)

3 Both the Trust and the Elders are subject to specific legislation when dealing with the church property. The most relevant legislation is contained in the Charities Act 1993 which lays down very strict rules in relation to dealings with charity held property, the most pertinent of which, in relation to sale, purchase and letting of church buildings, are the requirements to obtain professional advice at all times and to obtain the "best terms" in all instances.

4 Because of these requirements, any dealings with church land of this nature will include legal transactions and it is **imperative that the Trust is involved as early in discussions as possible through its Legal and Trust Officer (LTO)** (who can be contacted at the Synod Office). Advice will be required from the Trust's Surveyors and Solicitors and any legal documents (agreements, transfers, licences, leases etc) will have to be signed by the Trust. **This must be done through the Trust via the LTO** who should be contacted as early as possible.

5 There is detailed guidance available from the LTO on all aspects of purchases, sales and lettings and it is not intended to reproduce all the information in these Guidelines. However, the LTO should be contacted as soon as the local church is considering any of these matters so the necessary advice and information can be given and the correct procedures followed. A brief summary of the requirements in each case is outlined below.

The following matters will need to be attended to in the order set out below (although these steps often overlap):

- (a) The Church must consult the LTO to discuss procedure and legal requirements generally. The church must also consult the Moderator to discuss matters pastorally. The Area Secretary must also be consulted. It is important that matters are discussed

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with all these people very early on so the correct advice can be given and procedures followed.

- (b) The church must consider its relocation very early on. Of course, if the church fellowship is not closing, the church must have somewhere else to go once the sale goes through. On completion of the sale, the church will be required to give vacant possession to the purchasers and must have somewhere else to go even if on a temporary basis until long term arrangements can be finalised.
- (c) The Church Meeting will pass a Resolution giving its approval to the sale. The wording of the Resolution should be obtained from the LTO. Two clear weeks' notice of the Meeting at which the Resolution is to be proposed must be given. Once passed, a copy of the signed Resolution must be forwarded to the LTO. (See 14 below for advice regarding instructions for sale proceeds in the Resolution.)
- (d) If the property is listed then the Secretary of the Listed Buildings Advisory Committee (LBAC) must be consulted as soon as possible.
- (e) If there is a pipe organ at the church (whether in use or not) the LTO (and the Secretary of the LBAC if the church is listed) must be informed of this as soon as possible. Some church organs are listed in a separate Register (even if the church is not listed) and there are certain procedures and regulations concerning their disposal before buildings can be sold. These can be complicated and time consuming and can hold things up if not thought about early on.
- (f) The LTO must be advised of any outside organisations currently renting or using the premises as early as possible as vacant possession will need to be given before completion of the sale of the property can take place. The Trust's Solicitors will need to be instructed in relation to notices to quit and it is important that any Agreements or legal documents in relation to the lettings are passed to the LTO immediately so advice can be sought. In some instances, 6 months' notice must be given to the tenants and this can cause delays if not dealt with promptly. There is a strict legal procedure in relation to the preparation and service of notices to quit and these must be dealt with by the Trust's Solicitor.
- (g) District approval will need to be obtained via the Area Secretary.
- (h) Synod approval must be obtained through the Synod Resources Committee (SRC). Usually the proposals will be brought to that Committee by the Area Secretary.
- (i) The matter will then be referred from the SRC to the Trust for its approval, once SRC approval has been given.
- (j) The LTO will instruct the Trust's surveyor to prepare a Valuation Report under Section 36 of the Charities Act 1993. This Section of the Act requires the surveyor to include specific advice in his report covering various aspects of the sale, which can not proceed without it.
- (k) Agents will then be instructed to market the property. Usually, the Trust uses the same Firm to deal with the Section 36 Report (See 10) and the marketing. Surveyor's advice has to be obtained before any offers can be accepted and matters are greatly simplified if the surveyor and selling agent are one and the same. The Trust would normally wish to use a surveyor of its choice. It is occasionally possible to use another surveyor if the Church has particular wishes in this respect and the Trust approves this but it is not

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usually recommended. The surveyor must have specific qualifications and not all surveyors have sufficient knowledge about the requirements of the Charities Act. It is advisable to employ a surveyor who has acted for us before and knows exactly what is required. The fees will be payable by the church but, in practice, if the surveyor is also dealing with the sale, he is usually prepared to defray payment of his fees for the survey and claim them from the proceeds of sale at the end of the day. However, if there is to be a significant delay between obtaining the Report and actually completing the sale of the property then the surveyor will probably expect payment of his fees for the Section 36 Report immediately. This is a matter for the surveyor to decide in each case.

- (l) Once a purchaser has been found and the surveyor has advised the church to proceed, the Trust's Solicitors will be instructed to deal with the legalities of the sale.
- (m) If the property is not going to be replaced by the purchase of another one, a Public Notice will need to be displayed where it can be viewed by the general public for one month clear before contracts can be exchanged on the sale. The LTO has more information on this and will prepare the Notice for the Church.
- (n) On completion of the sale, the solicitor will retain her Firm's expenses and will pay the surveyor and Agent out of the sale proceeds (after approval of the fees by the church). Unless the church fellowship is closing (dealt with elsewhere in these Guidelines) the net proceeds of sale will be due to the church and the solicitor will send these to the Synod Finance Officer for investing on the church's behalf and at its instruction. Any special instructions in this respect should be included in the original Resolution and advice upon the options for the final net proceeds of sale can be obtained from the LTO, the Synod Finance Officer or the Synod Treasurer before the Resolution is passed.
- (o) Until the sale is completed, it is imperative the property is kept fully insured, even if the congregation has moved to worship elsewhere beforehand. The insurance company must be notified immediately of any change in circumstances. The premiums usually increase drastically and the cover decreases to the bare minimum once the property is empty and unused and it is, therefore, sensible for the church and current tenants to continue to use the premises until the sale is completed or, alternatively, arrange for occasional activities or acts of worship/meetings etc. to continue to be held there, even if on a much reduced basis. We have found that the insurers are usually willing to retain the existing cover providing the premises are used regularly at least once a week.
- (p) The Church Secretary or nominated church member/s will be responsible for making sure the property is cleared before completion and all items which the church is not taking with it to its new premises and which are not required by the purchasers (by agreement) must be removed from the premises and dealt with properly. Advice in relation to disposal of any such items should be sought from the Area Secretary.
- (q) On completion of the sale, the Church Secretary or other nominated church member will be responsible for advising the insurance company the property has been sold. He/she will also have to arrange for the services authorities (gas, electricity, water, telephone, council tax/rates office (if appropriate)) to be informed of the sale and final meter readings submitted to them.
- (r) The LTO is always happy to discuss matters with the Church Secretary or nominated church representative or professional advisers on behalf of the church and it is very important for the church secretary or nominated adviser to feel free to speak to the LTO at any time.