

G CHURCH CLOSURE 1 Considering the Closure of a Church and the Sale of Church Buildings / Land (SYN)

1 Introduction

(N.B. The Introduction to the Section of these Guidelines entitled "CHURCH BUILDINGS AND LAND:- SALE AND PURCHASE (INCLUDING MANSES), LETTING OF CHURCH PREMISES (THIRD PARTY USE)" should be read as it explains the relationship between the local churches and the United Reformed Church (North Western Province) Trust Limited (the Trust) and the responsibilities of that Trust (as custodian trustee of the premises) and the Elders of the local church (as charity or managing trustees).

2 Life never stands still and circumstances change. Occasionally such changes indicate that a local church is no longer viable, for a variety of reasons, and decisions have to be made about its future.

3 As soon as this needs to be faced, the church should seek guidance from the District Council and Synod Moderator. The Legal and Trust Officer (LTO) should be consulted early on (at the Synod office) for advice of a legal nature.

4 The closure of a church is, inevitably a cause for sadness and, if the problems relate to the building rather than to the fellowship itself there may be viable alternatives. The help you explore these, Section 2 below poses a number of questions for you to think about.

5 In most cases the Trust referred to below will be The United Reformed Church (North Western Province) Trust Limited although one or two churches still have private trustees. If a church does have private trustees, then references to the "Trust" should be taken to mean the private trustees for the time being of that property or land.

Questions to be considered first

6 Is the problem primarily one of buildings or of the viability of the fellowship?

7 If the buildings are the problem, could they be used more imaginatively, by adaptation, for church and community use?

8 Could the value of the site be realised by means of a development scheme incorporating new premises for church use?

9 Could the total site be leased or sold for redevelopment and the congregation move elsewhere for worship and witness – perhaps planting the seed of a new church in a new and under church area?

10 Is the building listed or in a conservation area? (If so, this may affect the situation and narrow the options.)

11 Would the cause of the Kingdom be better served by uniting the fellowship with another United Reformed Church or by 'uniting' or sharing with a church of another denomination?

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12 The LTO can provide the Church with a Self Appraisal Questionnaire which raises many questions for consideration by a church which is considering its future and which it might find helpful.

Steps to be taken if the church decides to close

13 If the church, District Council and Synod, in consultation together, decide, having examined all the options, the closure of a building and/or the dispersal of the membership is the right way forward, the following steps should be taken.

14 It is important the LTO is consulted very early on to give advice and guidance as to the correct procedures when dealing with property or land held by the Trust on behalf of the local church. The LTO should be involved throughout to guide the church through the relevant procedures and statutory requirements. It is also important the Area Secretary is consulted in the very early stages and is involved throughout.

15 A Resolution to close on a specified date should be passed by a specially convened Church Meeting. The LTO will provide the appropriate wording for the Resolution and two weeks clear notice of the Meeting must be given when details of the intended Resolution should be read out to the congregation. The date of closure must be agreed with the Trust before the Resolution is passed as it will be the Trust which is responsible for the property after the church has closed.

16 The Church Meeting should also (with the approval of District, Synod and Trust) pass Resolutions to dispose of its buildings and funds. Again, the wording of the Resolutions will be provided by the LTO and, in practice, all the Resolutions are usually produced as one document to be passed together at one Meeting.

17 As regards **Buildings** under the United Reformed Church Trusts (which are governed by the United Reformed Church Act printed in the Manual) the Church Meeting can authorise the Trust to dispose of its buildings/land etc... This also requires the approval of District Council, Synod and Trust and the wording of the appropriate Resolution will be drafted by the LTO.

18 If the congregation is to disperse and cease to exist as a worshipping congregation of the United Reformed Church (i.e. the fellowship is the close) then the sale proceeds will pass to the Synod as part of its general funds. The Synod can instruct the Trust to sell if the Church does not do so although, in practice, this is extremely rare.

19 There are several practical reasons why the church building itself should not be closed prior to its eventual sale and why regular occasional services and meetings should be maintained there:

- (a) less risk of vandalism;
- (b) if the buildings are empty the insurance premiums will probably increase greatly but the cover is usually reduced to the absolute minimum. If the buildings are still used (even once a week) the premiums and cover usually remain unchanged;
- (c) avoids any possibility of empty property rating (which is much higher);
- (d) preserves ecclesiastical exemption if the church building is listed.

20 The liquid **Funds** of the church, however, are usually disposed of in accordance with the wishes of the church provided this is done in ways which

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accord with the original purpose of the church and the denomination. Advice may be needed if there are funds held under special Trusts and the church should approach the LTO in the first instance with any such queries, who may then refer the matter on to the Synod Treasurer for advice.

21 The matter should be placed on the Agenda of the District Council, the relevant Synod Committee (probably the Synod Resources Committee) and the Trust. The Area Secretary will ensure that this is done.

22 One person, normally a member of the local church, should be appointed to act on behalf of the local church in dealing with the Trust (the church representative). The name and address of this person must be passed to the LTO. The details of this will be included in the Resolutions referred to above.

23 The United Reformed Church Act requires that Synod approval must be given to the sale, after which the Trust may act. Under the Act it is the Trust's responsibility to sell and it will appoint its own professional advisers. If the fellowship is closing then the decisions relating to the disposal of the buildings will be down to the Trust which will take over responsibility for them as charity trustees on the closure of the fellowship. The Trust always tries to deal with such matters in consultation with the members of the fellowship.

24 Those persons within the local church who have hitherto been responsible for the care and maintenance of its buildings should continue to exercise that responsibility up to the final disposal of those buildings, whether the local church unites with another church or not. If the church is closing, the Trustees will require a former church member (usually the person nominated in 3.4 above) to continue to act in a caretaking capacity after the church has closed if this is not synchronised with the completion of the sale of the premises. The Trust will wish to include this in the Resolutions referred to above but the Resolution must make it clear this person does not have any responsibility after the fellowship has closed and he/she are simply appointed to assist the Trust in carrying out its responsibilities.

25 The person or persons responsible for the care and maintenance will continue to have responsibility for at least the following until the fellowship is officially closed:

- (a) the continuing payment of insurance premiums. The church should contact the insurance company, informing them of the planned closure and then again after the sale has been completed. The insurance company must also be informed if the church is empty and, if the use is minimal, details of use must be given to the insurance company so they can adjust the policy and premiums accordingly. Even though the premiums may increase and the cover decrease, if the insurers are not advised of any changes in circumstances, the policy may be void and problems may occur in the case of any claims which may arise;
- (b) turning off the gas and instructing the gas supplier to read the meters and disconnect the supply (unless advised otherwise by the LTO);
- (c) turning off the water and draining the system (including all radiators) (unless advised otherwise by the LTO);

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(d) turning off the electricity, informing the electricity supplier and having the meters read (unless advised otherwise by the LTO).

26 In relation to b., c. and d. above, the Insurance Company usually requires confirmation in writing that these facilities have been switched off. If the power is then switched back on again to allow prospective purchasers to view the premises, the insurers must be informed by telephone and they will ask for an assurance that it will be switched off again:

- (a) ensuring that the Notice Boards are not removed;
- (b) the Selling Agents must be consulted as to the prudence of placing "For Sale" notices in the church grounds. Normally the advice of the professional advisers should be taken, however, it is usually felt it is not wise to publicise the property for sale in this way due to the increased risk of vandalism. A decision in this respect should be made in consultation with the Selling Agents and the LTO;
- (c) arranging for the property to be visited at least daily to check security and the doors opened to give the impression that it is still in use;
- (d) informing the Police and Fire Officer of the fact that the building will not be in use and seeking their advice and acting upon it if necessary.
- (e) paying all bills up to the point of completion of the sale of the building or the church closing and responsibility passing to the Trust, in consultation with the Trust via the LTO;
- (f) informing the Registrar of Marriages, giving the proposed date of closure and arranging to hand over the marriage registers;
- (g) arranging to deposit other registers, historical records and minutes with the Local Authority Archive office;
- (h) considering the disposal of any liquid funds (see 3.2 above) which will remain after the building is sold and all expenses paid. A Church Meeting Resolution will need to be passed in this respect and will usually be incorporated in the Resolutions referred to above. The LTO will draft the Resolution. It should be borne in mind, however, that any gifts of money must be in furtherance of the objects of the United Reformed Church. This does not usually allow for significant financial donations to be made to non-URC organisations, even if they have charitable status and are closely connected to the church. Advice should be sought early on from the Synod via the Treasurer or LTO to avoid promises being made which can not be honoured or donations being given which will put the Trust or Elders (as charity trustees) in breach of their statutory obligations;
- (i) Synod in October 2003, agreed the following, when a local church closes included in the resolution should be a clause which states the church will meet its Ministry and Mission commitment to the end of the year out of finances held by the local church. Also, if a church officially unites with another local church upon closure the number of members who join the new church should be added onto the list of the host church from January 1st of the year after the closure. For simplicity 'other regular worshippers' have been left out of the scheme;
- (j) considering the future use of items of furniture and fittings. A list should be made and agreed by the Church Meeting. Special attention should be given to any items of value;

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(k) the church will be required to pay its outstanding M&M payments for the year of closure.

27 The church members are responsible for clearing the premises of all items and disposing of them properly. These would usually be offered around the District via the Area Secretary and the church representatives should consult the Area Secretary early on in this respect for advice. It should be noted, however, that if the property is listed, items such as pews, memorial plaques and other things that are actually attached to the fabric of the building will usually form part of the listing and can not be removed. The LTO should be consulted in this respect.

28 It should be noted, some pipe organs can be listed separately (even if the church is not) and in such cases, these must be disposed of according to certain rules. These procedures can be complicated and time consuming and, if there is a pipe organ on the premises, the LTO should be advised of this as early as possible so advice can be given and any appropriate procedures put in place in plenty of time.

29 If the church has a graveyard, the records must be brought up to date and the advice of the LTO sought at an early stage. If the members have reason to believe there may be human remains buried on the church site, even if there is no graveyard as such, they must discuss this with the LTO early on as this can have major implications on the future development potential of the premises and the surveyor and solicitor will need to be advised when given instructions to prepare valuations and deal with the sale as discussed below.

30 If the membership is to disperse, pastoral care should be arranged for every member and adherent, to ensure they are properly linked (and memberships transferred) to other churches. The aim should be that no one should be “un-churched” by the proposed closure.

31 A service of thanksgiving should be arranged to which former members and representatives of the wider church might be invited to offer to God the life and witness of that fellowship in that building and to commit the future to God.

Mechanics of sale

32 As the property will almost certainly be held in the name of the Trust (as custodian trustee on behalf of the local church until the fellowship has finally closed and, thereafter, as managing trustee also), the Trust will have the conduct of the sale procedures and will instruct its own professional advisers in this respect (i.e. surveyor and solicitor).

33 If the closure of the church and the sale of the buildings cannot be synchronised (as is usually the case), some of the following procedures will take place before the final service and some afterwards. The sequence of events is as follows:-

(a) Once all the approvals listed in 3 above have been obtained, the LTO, in consultation with the church representative will instruct its surveyor to visit the premises and prepare a valuation report under Section 36 of the

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Charities Act. This is a requirement of the Act and we are not able to proceed without it.

- (b) As early in the proceedings as possible, the church must give the LTO details of any outside organisations which currently use the premises, together with details of their letting arrangements (providing any legal documentation which has been signed in relation thereto). The LTO will then discuss the necessary procedures for obtaining possession with the Trust's Solicitor and the church representative. It is important this is discussed early on as, in some instances, 6 months notice is required and this can cause delays if not dealt with properly in plenty of time. It is imperative that any notices to quit are prepared and served by the Trust's Solicitor to ensure there are no problems in gaining possession at the end of the day which might delay or jeopardise the sale of the premises. The LTO will liaise with the Church representatives in this respect to ensure these matters run as smoothly as possible and the tenants/hirers are kept fully informed of the situation.
- (c) Once the Section 36 report (see 4.1 above) has been received the LTO will instruct Agents to market the property. The same firm is usually instructed to deal with both the surveyor's report and the marketing of the property. This is because the Charities Act requires us to obtain advice throughout from a suitably qualified surveyor who must also advise as to what offer should be accepted. He will have to provide this advice in writing before we can formally accept any offers and it is, of course, much simpler if the surveyor and the selling agent are one and the same.
- (d) As the property is not to be replaced a further requirement of the Charities Act is that a Public Notice be displayed for one month clear before the property is sold. Very briefly, this is to put the general public on notice that a charity-held property is to be sold and allows them to make representations in this respect if they wish. The LTO will prepare this and will send it to the church representative who will be responsible for making arrangements for this to be displayed. The LTO will explain this in more detail at the time but it should be noted the Solicitor will not be able to exchange contracts on the sale until the Notice has been displayed for one month.
- (e) The surveyor will advise as to which offer should be accepted and once a purchaser has been found, the LTO will instruct the Trust's Solicitor to deal with the legal procedures in relation to the sale.
- (f) There may be questionnaires to complete from the purchaser's solicitors which are usually in standard form. Even if the church fellowship has closed, the LTO will ask for the assistance of the nominated church representative in completing these forms.
- (g) If the church fellowship is not closing until the sale of the church buildings have been completed, the LTO will discuss possible completion dates with the church representatives.
- (h) On completion of the sale of the buildings, the Solicitor will pay the surveyor's and agent's fees and retain her own fees out of the proceeds of

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sale and will remit the net proceeds of sale to the Synod Treasurer. As the church fellowship is closing, the net proceeds of sale will form part of the general funds of the Synod.

- (i) The nominated church representative will be responsible for taking the final meter readings on completion and informing the relevant service providers of these and of the change of owner of the buildings.
- (j) In consultation with the LTO, the nominated church representative must also make arrangements for the insurance company to be informed of the date of completion and the policy cancelled.
- (k) The nominated church representative must make sure the property is cleared of all items which are to be removed from the premises before completion.
- (l) The nominated church representative is responsible for making sure that all sets of keys to the premises have been collected and handed to the agents either before or on the day of completion.