

**The United Reformed Church Northern Synod**  
Factsheet 1: Property Sales

The sale of a church, hall or manse is a long process, and this sheet will help to guide you through the process.

**DECISION TO SELL**

First of all, you have to decide to sell. Properties such as churches, halls and manses are held subject to the terms of the United Reformed Church Acts 1972-2000. (There is further information in the United Reformed Church Manual and the Property Handbook). The Acts set out the procedure to be followed when deciding to sell one of those properties.

**1. Church Meeting**

The process usually starts with a discussion at Church Meeting, although it is a good idea to consult with the Synod at an early stage if you are considering a sale. Occasionally, the Synod may take the initiative by consulting the Church Meeting. (This would usually happen when a building appears to be no longer needed, rather than when one building is to be sold with a view to buying a replacement property.)

Once Church Meeting has made a decision, the Church Secretary or other officer should write to the Trust Officer with a copy of the resolution from the minutes of that meeting, requesting the Synod's approval of the proposed course of action.

**2. Synod**

The Trust Officer will prepare papers for the Trust Board and Synod's Mission Executive Committee to help them make a decision. Sometimes the committees may ask for further information before coming to a conclusion. The Trust Board meets five times a year, with agenda papers being finalised and sent out 2-3 weeks in advance. However, sometimes it may be possible for the committee to decide straightforward applications between meetings.

**3. Trustees**

All properties held for the church are legally owned by trustees. In most cases, the United Reformed Church (Northern Province) Trust Limited acts as trustee, although sometimes there will be another body, or a group of individuals. Usually the trustees will act on the instructions of Synod, unless a legal question is raised. If in doubt, you should consult with your trustees to ensure that they will be willing to go ahead with a sale.

#### 4. *Caretaking*

Whilst a property is in the process of being sold, the local church will still have to look after it. It may well be worthwhile appointing a specific individual or group of individuals to deal with issues regarding the sale. The property will have to continue to be insured, and looked after. Arrangements will have to be made to clear out the contents of the building (unless they are to be included in a sale). It is well worth starting on clearance, and any other works which you know will be needed, at an early stage.

### MARKETING

#### 5. *Choosing an Estate Agent/Surveyor*

It is for the church to choose an estate agent/surveyor. It is a good idea to visit their offices and talk over the sale.

For churches and halls in the Newcastle or Teesside areas, the Synod recommends using Sanderson Weatherall. Our contacts are Neil Cunningham (22-24 Grey Street, Newcastle upon Tyne NE1 6AD, 0191-261 2681) and Neil Blyth (Robert House, Westpoint Road, Teesdale Park, Stockton-on-Tees TS17 6BA, 01642-870870).

For manse or other sales, use a reputable firm of estate agents and surveyors with local knowledge. They must be qualified to produce a surveyor's report in line with the Charities (Qualified Surveyors' Reports) Regulations 1992.

Before visiting the agent, it is worth having certain pieces of information to hand:

- Full address of the property (including postcode if it has one)
  - Full name and address of the trustees, their solicitors, and the local church contact
  - Whether the property is currently occupied
  - Whether they are to be provided with a key to show viewers round
- In addition, there are various legal questions that they will want to raise at any early stage, for clarification, either with the church or its solicitors:
- Whereabouts of the title deeds
  - Whether the property is freehold or leasehold
  - Whether the building is listed, in a conservation area, or has a graveyard attached
  - Whether there are covenants restricting its use or sale

In the case of the United Reformed Church (Northern Province) Trust Limited, which acts as trustee for most properties in the Synod, our address is 4 College Lane, Newcastle upon Tyne NE1 8JJ (telephone 0191-232 1168), and our solicitors are Dickinson Dees, One Trinity,

Broad Chare, Newcastle upon Tyne NE1 2HF (telephone Mr Ian Ward 0191-279 9244).

6. *Terms of Engagement*

The estate agents/surveyors will usually draw up a letter of engagement, setting out the terms under which they will market the property for sale. Normally a budget will be agreed for various items, such as printing and mailing particulars of sale, newspaper advertisements, erection of "for sale" boards, and other expenses. The agents' fees are usually expressed as a percentage (probably 1%-2%) of the sale price.

Although the local church will be dealing with the estate agents on local matters, it should be made clear that the sale will proceed in the name of the trustees, and therefore the letter of engagement should more properly be signed by them. However, beware that if sale does not proceed or it is greatly delayed, the trustees will expect the local church to provide funds to meet the agents' preliminary costs.

7. *Method of Marketing*

The agents will want to visit the property, inspect and photograph it, and after some consideration will advise on the best method of marketing. In some cases, it may be that relatively minor works could significantly enhance the sale value, and in such instances the church could expect to recoup any expenditure on improvements from the final proceeds of sale. Sometimes, the agents will suggest setting a deadline for sealed or open bids.

8. *Accepting an Offer*

The agents will advise when they consider enough time has been given to allow interested parties to make offers, and will also recommend which one to accept. Under the Charities Act 1993, we are obliged to obtain "the best value reasonably obtainable." Usually this will be the highest offer, but occasionally there may be circumstances where this is not so clear-cut. It is the local church which makes this decision, although it may do so on the advice of its agents and/or the Synod. Usually the trustees will accept this decision, unless it is clearly unreasonable.

9. *Surveyor's Report*

Either at this time, or earlier, the agents must produce a written report describing the property and the methods of marketing, and confirming their view of the best value reasonably obtainable. This report should be forwarded to the trustees, to prove that the sale has been reached properly.

## 10. *Chains*

Selling a property can be a lengthy process, depending partly on the issues arising, the property itself, and the other people involved. The marketing stage can take a couple of months, and then the legal work can take another three months or more.

Usually when the church is selling property it will not be engaged in a linked purchase (although this is occasionally the case with manse). This means that the church will be at the top of the chain. However, in the case of residential properties, the sale will not be able to proceed until everyone else in the chain has a buyer for their own property. With church and hall buildings, often the buyer will be a developer or a business which can afford to buy the property outright. Nonetheless, in even the simplest transaction there will be five parties involved: the church, the trustees, their solicitors, the buyers, and their solicitors. In many cases, the estate agents may still have input, and the buyer may be dependent on the local authority for planning permission, or its bank (and the bank's surveyor) for a loan.

From this it can be seen, that quite a large number of people can be involved in the transaction, which means that it is more or less inevitable that delays will arise at various points.

## LEGAL WORK

### 11. *Title Deeds*

Once the agents have found a buyer, there will be a shift in responsibility. In the next stage, the solicitors will take the leading role, although the agents will still have some involvement. For the church's part, the trustees will also have greater input from this point.

Although the agents will usually contact the trustees and their solicitors with particulars of the sale, it is helpful if you also inform the trustees once an offer has been accepted subject to contract.

As mentioned above under point 5, you will need to know where your title deeds are, as they form the legal basis of the property you are about to sell. Usually they will be held in safe storage by the trustees' solicitors.

In some cases, if the deeds are old and unclear, or only part of the property is being sold, it may be necessary to instruct a surveyor to draw up a scale plan of the area to be sold and any adjacent areas being retained. If the solicitors request a plan, the local church should arrange for this to be provided as quickly as possible, normally using the estate agents acting in the sale.

## 12. *Precontract Enquiries*

What follows is a process in which the solicitors for the buyer will be quite active, as they try to find out more about the property, on their client's behalf. It is usual to ask a long list of fairly standard questions, not all of which may seem applicable or even answerable in every case.

Precontract enquiries will include questions about such things as:

- the position and ownership of the boundaries
- any disputes with the neighbours
- whether there are rights over the church's land or adjoining land
- what services (gas, electricity, water, telephone) are connected
- whether there is road access
- whether the church has to pay for any shared facilities (such as a maintenance of a private road)
- whether there are any guarantees (eg, for recent works to the property)
- whether planning permission was obtained for any major works done to the property

There will also be smaller standard forms asking about what fixtures and fittings will be included in the sale and asking about any restrictions or rights affecting the trustees' title to the property.

Initially these questions will be directed to the local church with its more intimate knowledge of the property, although in many cases all you will be able to say is that you don't know the answer, or that it is not applicable. The trustees and their solicitors will often be able to fill in the gaps with their legal knowledge.

It is worth beginning to think about some of these issues at an earlier stage, and collecting any documents (such as guarantees and planning permission) which would have to be handed over upon sale.

## 13. *Buyer's Searches*

Whilst you are answering the buyer's questions, they will also be asking questions elsewhere. They will be making searches at HM Land Registry, the local authority, the coal board and others to find out more about the property. They will also usually have a professional survey carried out at the property. Sometimes one of these searches or the survey will raise an issue which will need to be investigated further, which may mean more questions, more legal work, more delay, or a request for a reduction in the price.

14. *Agreeing Contracts*

Once the buyer is happy with the information he has gathered, the trustees' solicitor will prepare a contract. Sometimes particular terms may be the subject of negotiation, with letters passing to and fro until both parties are happy to proceed.

15. *Signing*

The contract will be produced in duplicate and signed by the trustees and the buyer.

16. *Exchange of Contracts*

Once contracts are signed, and everyone is happy to go ahead, the solicitors will exchange them, so that each party holds the contract signed by the other party. From this point, both parties are legally obliged to go ahead with the transaction. The buyer will pay a 10% deposit to the solicitors, which they will hold for the trustees. A date will be fixed to complete the sale.

Between exchange and completion, you should contact the service providers identified above in item 12 to arrange for meters to be read and service contracts transferred on a date after completion.

17. *Completion*

On the day of completion, the buyer will pay the balance of the purchase price to the trustees' solicitor. The church will make sure that the property is vacant and that the all keys are with the estate agents, so that they can be released to the buyer. The formal deed of transfer will have been produced by the buyer's solicitors, signed by the trustees, and returned to the buyer's solicitors.

## FINAL MATTERS

18. *Insurance*

You should continue to insure the property until the sale is legally completed. Then you should contact your insurers to stop insuring. You will probably be entitled to a rebate of part of your annual premium.

19. *Proceeds of Sale*

Once any loose ends have been tied up, the trustees' solicitors will send a completion statement to the trustees confirming the money received and any invoices and expenses paid. They will also send a cheque for the net proceeds of sale to the trustees. The money will then be paid out or invested in accordance with the original Synod decision.

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