

## **SALE OF PAROCHIAL CHURCH COUNCIL (PCC) PROPERTY** **A GUIDANCE NOTE FOR PCC'S**

Under the PCC Powers Measure 1956, a PCC is not allowed to own any freehold or leasehold property in their own right, except a shortlease as defined in the measure.

Such property is usually vested in Leeds Diocesan Board of Finance (LDBF) as the diocesan authority, who become the custodian trustee. The PCC are known as the managing trustee and must keep the LDBF indemnified of all costs and liabilities relating to the property.

Prior to any contemplation of a sale or other disposal (e.g. lease or charge) the PCC must:

- Ensure that they have power to dispose of the land. This information will usually be found in the deeds which will be held either by the LDBF, the Diocesan Registrar or locally.
- Consider if the disposal is beneficial to the PCC.
- Obtain a written report under Section 119 of the Charities Act 2011 sometimes called either a Section 119 Report (Section 119 Report) or a qualified surveyor's report (QSR). This report must be in line with the Charities (Qualified Surveyors' Reports) Regulations 1992 (QSR Regulations). This will cover, amongst other matters; full details of the property, whether the property is in good order, if any work needs to be done along with costs, whether the property is subject to any restrictive covenant and the surveyor's opinion as to open market value. PCC's should also enquire of the surveyor about any development potential and or 'clawback' provisions. The surveyor should be a Fellow or Professional Associate of the Royal Institution of Chartered Surveyors. Please note that this report is different from an Estate Agents marketing report. Any conflicts of interest in the appointment of the surveyor should be avoided. A copy of the QSR Regulations can be found at <http://www.legislation.gov.uk/ukxi/1992/2980/made>
- Consider whether the trusts on which the property is held stipulate its use for particular purposes and, if so, give at least one month's public notice of the proposed disposition to allow interested parties to make representations to the PCC about their proposal. This is a requirement of the Charities Act 2011.
- Pass a resolution confirming their decision and send a copy of this and the QSR to the LDBF

The consent of the LDBF will usually be required to the sale and the PCC should bear in mind that sometimes this can be a lengthy process, as it may have to fit in with meetings of the LDBF. The PCC should forward the QSR onto the Property Team [property@leeds.anglican.org](mailto:property@leeds.anglican.org) in the Diocesan Office who will then bring the matter to the attention of the LDBF.

There are however certain circumstances when a PCC wishes to buy, sell, lease, let, exchange or charge property, including assets other than land held as permanent endowment that are vested in the LDBF, where the consent of the LDBF will not be required if:

- The value of the transaction is less than the lower of (i) the PCCs annual unrestricted income in its most recent annual accounts made up to 31 December and (ii) £250,000 (provided that its most recent annual accounts are not more than 22 months old); and
- The transaction does not relate to or include (i) a church or a building licenced for public worship (in full or in part) (ii) a churchyard or part of a churchyard or (iii) land which is adjacent to property as defined in (i) or (ii).

The PCC will be responsible for all fees in connection with the sale of such property including those of any surveyor and/or solicitor appointed on behalf of the LDBF.

It will usually be that the LDBF will use Lupton Fawcett (Yorkshire House, East Parade, Leeds LS1 5BD T: 0113-2802000, contact Mr Peter Foskett) to act on their behalf. The PCC may instruct any solicitor they choose but they can also use Lupton Fawcett. This will usually save in costs and the parish should avoid using any 'cut price' or "tie-in" deals as sometimes these are not all that they seem and more particularly any solicitor who is instructed must have knowledge of ecclesiastical and charity law to ensure that documentation is correctly drafted.

If the PCC have any queries please contact the Property Team on 0113 3530196 or [property@leeds.anglican.org](mailto:property@leeds.anglican.org)