

SUMMARY GUIDANCE FOR PARISH PROPERTY TRANSACTIONS

This guidance summarises the position as set out in the Parochial Church Councils (Powers) Measure 1956, as amended by the Ecclesiastical Property Measure 2015. It does not attempt to deal in detail with other legislation which may affect parochial church councils (PCCs) in their dealings with their assets.

1. Any interest held by a PCC in land (other than a lease of no more than seven years) or any interest in personal property (e.g. shares, investment holdings) to be held on permanent trusts (often referred to as permanent endowment) must be vested in the diocesan authority (usually the Diocesan Board of Finance)¹. This is the case whether or not the approval of the consent of the diocesan authority for any transaction is required as set out below.
2. Under the Parochial Church Councils (Powers) Measure 1956, the PCC shall neither acquire² nor “sell, lease, let, exchange or charge the property without the consent of the [diocesan] authority”³ unless “the consideration on the transaction in question is less than such amount as may be specified in, or determined in accordance with, an order made by the Archbishops' Council.”⁴ The current Order governing whether transactions require the approval of the diocesan authority can be found here <http://www.legislation.gov.uk/cy/uksi/2015/1545/made?view=plain>⁵.
3. In summary if 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 diocesan authority, the consent of the diocesan authority will not be required if:
 - a. 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
 - b. 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).
4. In addition a PCC will be free to deal with any assets held in its own name without reference to the diocesan authority. However, in **all** transactions relating to assets the PCC will be subject to the general requirements of trust law to act in the best interests of the charity. This includes following the specific guidance on the disposal and

¹ Under section 6(2) of the PCC Powers Measure 1956 as amended by the Ecclesiastical Property Measure 2015

² PCC Powers Measure 1956, section 6(1)

³ PCC Powers Measure 1956, Section 6(3) as amended

⁴ PCC Powers Measure 1956, Section 6(4A)

⁵ The Ecclesiastical Property (Exceptions from Requirement for Consent to Dealings) Order 2015

acquisition of property is available from the Charity Commission guidance CC28⁶ and CC33⁷. This includes, but is not limited to, taking appropriate professional advice, transacting at the best price reasonably obtainable and following required processes for any proposed transactions with connected persons (defined for example in section 5.4 of CC28).

5. However, the PCC **will** require the consent of the diocesan authority if it wishes to buy, sell, lease, let, exchange or charge property, including assets held as permanent endowment and if:
 - a. The value of the transaction **exceeds** 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 / or
 - b. The transaction relates to or includes (i) a church or a building licensed 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).
6. If the PCC is in any doubt whether a transaction requires the consent of the diocesan authority it is encouraged to contact the Diocesan Registrar or diocesan office at an early stage to obtain clarity on the matter. In any case regardless of whether or not the consent of the diocesan authority is required for a transaction, if a PCC is contemplating a transaction relating to an asset which is vested in the diocesan authority, early contact with the diocesan office is encouraged. This should help improve the timeliness of the transaction and the diocesan office may be able to offer some informal advice or guidance to help bring the matter to a satisfactory conclusion. Unless otherwise agreed, the PCC will be responsible for the legal and administrative costs of the diocesan authority.

Approved by The Archbishops' Council

September 2015

⁶ <https://www.gov.uk/government/publications/sales-leases-transfers-or-mortgages-what-trustees-need-to-know-about-disposing-of-charity-land-cc28>

⁷ <https://www.gov.uk/government/publications/acquiring-land-cc33>