



# Developments and Works

Guidance on undertaking work and developments involving Methodist property.

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Managing Trustees embark on a wide range of works projects from installing new windows and modern kitchen facilities to sales of part of a church site involving a re-development of the land/buildings retained, or complete demolitions and rebuilds. Managing Trustees will want to capitalise on the energy of the congregation to successfully complete the works/development to ensure that Methodist property enables the Local Church to fulfil its Mission.

The information provided on this page is there to assist Managing Trustees and their professional advisers. It explains the requirements of Methodist law, policy and best practice together with the obligations under both property and charity law with which Managing Trustees must comply when undertaking works and developments. If you are seeking guidance on what to do with land or buildings or to discuss possible ideas with a property specialist, you should contact your District Property Secretary and the property advisers within the [Connexional Team](#). This guidance is intended to be utilised by Managing Trustees who have already identified their Mission and are now seeking to bring their idea to fruition.

- [Introduction](#)
- [General legal, charity law and Methodist law, policy and best practice considerations](#)
- [Do the works involve a listed building or is the property in a conservation area?](#)
- [Are the proposals “minor” works?](#)
- [Are the proposals “major” works?](#)
- [Do the works involve a sale?](#)
- [Do the works involve a purchase?](#)
- [The role of TMCP](#)

## Introduction

In terms of practical guidance on the legalities of such projects TMCP have provided an overview of some of the issues Managing Trustees will want to consider before commencing any works.

Whether works are minor or major in terms of size and complexity, risks, budgets and timescales involved, there are common themes dictating how the works need to be conducted. The premises and funds being used are all “charity property”. This means that Managing Trustees as charity trustees have a duty to act with prudence and ensure that the charity’s assets are put to the best possible use. While Managing Trustees may feel under pressure from developers or agents to enter into projects that carry routine commercial risks, caution must be exercised. Third parties need to appreciate that Managing Trustees have additional responsibilities placed on them. TMCP will provide guidance in partnership with the Connexional Team to assist Managing Trustees in achieving their goals within the parameters of charity law, Methodist law, policy and best practice and critically, what is in the best interests of the charity.

## General legal, charity law and Methodist law, policy and best practice considerations

Although the exact requirements will depend upon the type of works/ development being considered, as a starting point the Managing Trustees will need to:

- Decide exactly what they want to achieve within their budget and liaise with the Circuit and District to ensure this fits in with the Circuit and District Mission plans.

- Check with their District Property Secretary whether a works project needs to be logged on the Methodist Property Consents Website (Consents Website). Please refer to the District Property Secretaries' [Works Flow Chart](#) for guidance. If the District requires a project to be logged then this must be done so that the three levels of consent can be entered.
  - If the development includes a sale, purchase or leaseback element Managing Trustees will also need to log projects for these associated activities.
  - If land or property is being disposed of in order to fund the purchase or redevelopment of land or buildings, it may be possible to seek a refund of the Connexional Priority Fund levy (levy taken on proceeds of sale, see Standing Order 970). A request for a project to be classified as a replacement is done via the online Property Consents Management System (Consents Website). Please refer to the [Replacement Project Focus Note](#) for details on what can be classified as a replacement project and the steps to be taken.
- Ensure that any external consents/ approvals are applied for including any planning permissions and building regulations approval.
- Contact TMCP if the local authority or council requires any planning agreements to be entered into such as a s.106 agreement. Such agreements require TMCP's prior approval and the inclusion of template clauses before they can be sealed by TMCP.
- Satisfy themselves that a sufficient number of quotes have been obtained and the charity is not paying any more than it should for the specification. A minimum of three quotes is often seen as a rule of thumb. Managing Trustees as prudent charity trustees will be anxious to balance cost with quality and may want to ask their surveyor for further guidance on likely cost and specifications if the works are anything more than very minor.
- Consider the budget and where funds will come from.
  - What are the likely costs?
  - Can any grants be applied for? Please visit the [Grants](#) page for further information.
  - If funds are to come from a sale of part of the church site, has the Circuit Meeting agreed to the funds being used for works to the retained land? Please refer to the [Sale Guidance for Managing Trustees Section F](#) for details of what happens to sale proceeds and who they belong to.
  - If a loan is required that will be secured against Model Trust property please contact [TMCP Legal](#) so that guidance can be provided on the requirements under charity law and Methodist law, policy and best practice.
- Speak to their professional advisers (for all but very minor works) to ensure that the works/ development is carried out and structured in the best interests of the charity.
  - Depending on the nature of the proposed works/development the Managing Trustees may feel that the advice of their architect, surveyor and/or solicitor is required. Please refer to the "Panel Solicitor" box below.
  - If the development includes a disposal of land including a lease or sale, a full Qualified Surveyor's Report (QSR) will be required. However, it is highly recommended that the surveyor is specifically asked to comment on the proposed development aspect. Please refer to the [QSR Focus Note](#) in relation to obtaining a Charities Act 2011 compliant QSR and the [Preparing a QSR Focus Note](#) for briefing notes to help the Managing Trustees' surveyor provide the advice that charity trustees should obtain.
  - To help Managing Trustees decide how to proceed in the best interests of the charity, it is strongly recommended that an initial feasibility study is obtained. Such a study should provide valuable advice on whether an idea is technically and legally viable (e.g. in terms of planning) and whether the works are worth the investment. If Managing Trustees wish to consider what advice is required and where to seek a feasibility study from, they should contact their District Property Secretary or property advisers in the [Connexional Team](#).
  - Managing Trustees will want to carefully consider the implications of carrying out the works on the Church's property in terms of value and amenity. Are there alternative options to achieve the same goals? Are the costs proportionate? Will the works help the Managing Trustees to further their Mission?
- Consider appointing a development manager to manage the project – this is somebody who would advise on development process, issues and due diligence as well as the construction itself and goes beyond what a project manager would typically do. Would the experience and expertise of somebody who deals with these sorts of works all the time lead to time and cost savings in the long run? Is somebody available with

a good track record of dealing with similar developments? Is somebody available who appreciates the additional responsibilities placed on charity trustees including risk?

- Instruct their legal adviser to review any documents to ensure that they are drafted to meet the best interests of the charity and the Managing Trustees know exactly what their responsibilities are under the contracts. If the documents include a development agreement or planning documents then TMCP will need to be party and template clauses will be required. Contact TMCP for further guidance.
  - Please ensure that any legal advisers instructed are experienced in dealing with development work as this is very different to standard conveyancing transactions. Managing Trustees should seriously consider using one of the firms on the Methodist Church's panel of solicitors. Please refer to the "Panel Solicitor" box below.

## **Panel Solicitors**

When Managing Trustees are seeking to instruct a solicitor to act for them in a transaction, such as a sale, TMCP and the Connexional Team would like to draw your attention to the panel of solicitors which has been set up to provide advice to managing trustee bodies across the Connexion. The firms on the panel were selected following a rigorous tender exercise and have extensive experience in acting for charities and Christian organisations across a wide area of legal work. For instance, the panel can advise in all types of property transactions, employment law, charity governance and litigation, to name a few. The panel also has expertise in dealing with complicated redevelopments and in a works project can review JCT contract, warranties etc. so Managing Trustees can be confident when entering into complex legal documents.

The benefit to Managing Trustees in using the firms on the panel is that they are familiar with Methodist law, policy and the procedural requirements which must be complied with in transactions. TMCP and the Connexional Team have invested time in training the firms on Methodist law, policy and procedure, and as a result transactions should proceed in a timely, efficient and cost effective manner.

Please refer to the [Panel Solicitor Page](#) for details on each of the firms and the services they offer.

## **Do the works involve a listed building or is the property in a conservation area?**

Managing Trustees will need to contact the [Connexional Conservation Officer](#) as soon as possible to see what implications this will have on their proposals. Guidance is available on the [Conservation page](#) on the Methodist Church Website.

## **Are the proposals "minor" works?**

Even if the Managing Trustees consider the works to be "minor" in terms of cost, size of works, risk and duration etc. such as installing audio-visual equipment or replacing kitchen units, please read the guidance on this page and ensure all appropriate professional advice is taken to help the Managing Trustees carry out the works in the best interests of the charity.

Note that some works that are "minor" in terms of cost and risk etc. may still need to be logged as a "project" on the Consents Website. You should check with your District if you are unsure whether a works project should be logged. Please refer to the District Property Secretaries' [Works Flow Chart](#) for guidance.

## **Are the proposals "major" works?**

Projects involving building or structural works such as reconfiguring worship space, building extensions and/or complete demolitions and rebuilds can become much more involved; For instance the work may take longer, involve higher risk and be more costly. There are additional points for Managing Trustees to consider and further guidance will be available over the coming months.

TMCP is producing a Development Process Chart setting out key steps for Managing Trustees undertaking larger scale developments to take. There are also plans to produce a briefing note for surveyors to help them to understand what advice Managing Trustees contemplating such projects require as well as case studies. Managing Trustees who would like to share their experiences of undertaking developments are welcome to contact [TMCP Legal](#) so that case studies can be created to help others across the Connexion.

### **Do the works involve a sale?**

Projects involving a sale can prove very complex and it is strongly recommended that Managing Trustees contact [TMCP Legal](#) as soon as possible. By involving TMCP at an early stage, Managing Trustees can get the help they need to start the project on the correct footing. TMCP will help Managing Trustees and their professional advisers to ensure that the transaction is structured with due regard to the charity law and Methodist law, policy and best practice requirements. Managing Trustees should contact [TMCP Legal](#) **before** heads of terms are agreed with a developer. As well as the general sales guidance on the [Sales](#) page Managing Trustees will find specific guidance on developments including sales in the [Sales FAQs](#), - questions 2 and 3.

Getting the structure of the transaction right before agreeing heads of terms with the developer is of key importance and Managing Trustees should seek advice from their legal adviser and surveyor in conjunction with guidance from TMCP as soon as possible to explore the options available. Speaking with professional advisers from the outset should limit any unexpected issues arising further down the process.

If Managing Trustees have decided that they want to explore the possibility of selling property please obtain a QSR as soon as possible and ensure that this is sent to TMCP for review and approval before entering into any negotiations with potential buyers/ developers.

### **Do the works involve a purchase?**

Development projects sometimes involve a purchase such as where an additional small strip of land is required to realise a proposed build. In this case Managing Trustees will also find the [Purchases](#) page of assistance.

### **The Role of TMCP**

The legal owner of nearly all Methodist land and property is TMCP. TMCP holds legal title in its capacity as Custodian Trustee on trust for the local Managing Trustees by virtue of the Methodist Church Act 1976. However, contracts between Managing Trustees and their contractors or professional advisers are seen as part of the Managing Trustees' day to day management of Methodist land and property and TMCP do not necessarily need to be involved. If the development includes agreements relating to the legal title to the property such as planning agreements (s.106 Agreement) or a grant/ release of covenants then TMCP would need to be party and give its approval as Custodian Trustee.

**TMCP Legal** provides guidance and assistance to help Managing Trustees fulfill their duty as charity trustees and ensure compliance with the charity law and Methodist law, policy and best practice requirements and procedures relating to any associated sale or purchase projects. TMCP Legal is also happy to review any documents, such as building contracts, between the Managing Trustees and their contractors to see whether any points need further consideration under charity law and Methodist law, policy and best practice.

**TMCP Finance** will play a role in works, whether or not a project is required, if the Managing Trustees are relying on Model Trust monies held for them by TMCP to fund the works. Please refer to the [Money Out](#) page for guidance on how to request funds. If a project has been logged, all project payments must be requested through the payments tab for the project on the Consents Website. Payments can only be requested, and the payments tab will only be activated, once the project has final consent, usually that of the District.

If the Managing Trustees or their solicitors would like any further guidance please do not hesitate to contact [TMCP](#).

## **Disclaimer:**

Please note that this document is to provide guidance and assistance to Managing Trustees and their professional advisers. This guidance note is general in nature, may not reflect all recent legal developments and may not apply to the specific facts and circumstances of any particular matter.

Also note that nothing within the documents and guidance notes provided by TMCP nor any receipt or use of such information, should be construed or relied on as advertising or soliciting to provide any legal services. Nor does it create any solicitor-client relationship or provide any legal representation, advice or opinion whatsoever on behalf of TMCP or its employees.

Accordingly, neither TMCP nor its employees accept any responsibility for use of this document or action taken as a result of information provided in it.

Please remember that Managing Trustees need to take advice that is specific to the situation at hand. This document is not legal advice and is no substitute for such advice from Managing Trustees' own legal advisers.

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Registered Charity No. 1136358  
A body corporate established by  
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Trustees For Methodist Church Purposes, Central Buildings  
Oldham Street, Manchester, M1 1JQ

Telephone: 0161 235 6770  
Fax: 0161 236 0752