

London Mission Fund – Clarification of Trust Arrangements

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Status of Paper	Final
Action required	For approval
Resolutions	114/1. The Council receives the report. 114/2. The Council authorises the Law and Polity Committee and the London Committee to approach the Charity Commission for a Cy-près scheme on its behalf.

Summary of Content

Subject and Aims	The purpose of this paper is to obtain the Council's approval to apply to the Charity Commission to clarify and/or amend the objects of the London Mission Fund (LMF). This would enable the Council to determine what the intended purposes of the fund are and how they can be released for purposes as closely related to the original objects of the trust, upon which there is a lack of clarity.
Consultations	Law and Polity Committee, Anthony Collins Solicitors

Background

1. The London Mission Fund (LMF) is a restricted fund raised and administered by the Methodist Council under Standing Order 363. The Council appoints its managing trustees, the London Committee.
2. With the exception of sub-clause 363(8) which notes that provision shall be made from the fund for grants to support Methodist Action on Poverty and Justice, the Standing Order is silent on the Fund's exact purposes. This reflects due to longstanding uncertainty about what those purposes are. The Fund consists of several properties and various trusts deposited with the Central Finance Board. It is understood that the value of the most significant Trust is over £9.6 million.

Advice has been sought from Anthony Collins Solicitors with a view to clarifying the Fund's purposes and trust arrangements. The advice received is attached at Appendix 1.

3. Historic information about the original purpose of the fund is scant and the advice note was written on the basis of two Counsel's opinions dated the mid to late 1980s. Two original Funds – the 1861 Metropolitan Chapel Building Fund and the 1885 London Wesleyan Methodist Mission Fund appeared to have merged into the LMF.
4. Anthony Collins Solicitors concluded that the LMF consisted of 'pots' of money subject to 'broadly similar but slightly different restrictions.' Given the impracticality of identifying which 'pots' were subject to which restrictions, and which remained to be spent, the Council was advised to approach the Charity Commission to have the Fund's purposes clarified and/or altered by way of a Cy-près scheme.

5. Once the Commission has clarified and/or altered the purposes, the whole of the London Mission Fund can then be held for the same charitable purpose, as a restricted fund of the Methodist Church, administered for the Church by the London Committee.

Law and Polity Committee consultation

6. Under the 'Cy-près' doctrine, the new purposes of the Fund must be as close as possible to the historic intention. As such, further work is required to identify them.
7. The Law and Polity Committee has considered the advice, agreed with Anthony Collins Solicitors' recommendation, and advised that authorisation must be sought from the Methodist Council as the administrator of the Fund before approaching the Charity Commission.

*****RESOLUTIONS**

114/1. The Council receives the report.

114/2. The Council authorises the Law and Polity Committee and the London Committee to approach the Charity Commission for a Cy-près scheme on its behalf.

LONDON MISSION FUND

ADVICE ON OBJECTS

METHODIST COUNCIL

12 December 2019

Ref: EET/47179.0007

Current Position under Standing Order 363

Standing Order 363 states that the Council will “raise and administer the LMF as a restricted fund.” The phrase “raise and administer” is unclear in meaning as it could mean to create and operate or raise funds and distribute.

The Standing Order also states that those appointed as trustees of the LMF shall be known as the London Committee. “Appointed as trustees” is an unusual phrase as such a fund would usually be administered by the trustees of the main charity i.e. the Conference or the Council on behalf of the Conference. The most logical interpretation is that the London Committee is the equivalent of a ‘subcommittee’ empowered by the Council to administer the LMF in accordance with the restrictions affecting it. This interpretation ties in with the opening words of Standing Order 363 i.e. that “the Council shall raise and administer the London Mission Fund as a restricted fund.”

As drafted, the current Standing Order 363 is not clear as to the restricted use of the LMF. It states in Standing Order 363(5) that “the consent of the trustees shall be obtained to the erection of any buildings or the purchase of any site for which aid is sought from the fund” but does not say that LMF can only be used for property purchases/building. It refers to “advocacy of the fund in each Circuit within the area of the former four London Districts” (as defined in Standing Order 363(10)) and that “no help from the fund shall be given to Circuits which neglect to comply with the foregoing requirements” but does not restrict use of the LMF to the geographical area of those former Circuits.

The only specific reference to the use of the LMF is in Standing Order 363(8) which states that “provision shall be made for grants from the fund to support Methodist Action on Poverty and Justice in accordance with Standing Order 1004”.

The conclusion, therefore, has to be that the pots of money forming the LMF over the many years it has existed, are each restricted in use to the purposes for which they were raised at the time – which may or may not have been set out in the version of Standing Order 363 (or its predecessor) at the time the funds were received. Such uses (as explained below) appear to have varied over the years potentially creating a series of individual restricted funds, together constituting the LMF. As each pot of money will have been spent the restriction affecting that pot of money will have ceased to apply.

However, it is important to bear in mind that any changes to Standing Order 363 (or its predecessor) cannot have altered the purposes for which any monies already in the LMF at the time of the changes, could be used. Such alterations could only affect the use of funds raised for LMF after the alteration to the Standing Order.

Historical Objects

Historically there appear to have been several revisions of the objects of what came to be the LMF since the original fund was first created in 1861. The following information on historical objects is based the opinions of two Counsel. The first is unnamed and is dated as been sent in November 1986, received by the London Committee on 4 December 1986 (“the 1986 Opinion”). The second is a Counsel’s opinion written by Edward Davidson and dated 14 January 1988 (“the 1988 Opinion”). At the time of this advice note we have not seen any other documentation relating to the historic objects of the LMF and we have not had sight of any documents that Counsel may have seen and on which their opinions were based. Therefore, the summary below is based only on the opinions of Counsel.

It appears that there were two original funds that ultimately merged into the LMF, namely:

- The 1861 Metropolitan Chapel Building Fund (“the 1861 Fund”); and
- The 1885 London Wesleyan Methodist Mission (“the 1885 Fund”).

The objects of the 1861 Fund were:

1. *To promote the erection of commodious chapels in suitable situations in and around the metropolis.*
2. *To assist in the enlargement of existing chapels, but only in those cases where, by the alteration, they are made equally capacious with the new chapels aided by this Fund.*
3. *To secure eligible sites, especially in the new localities, with the co-operation of the circuits in which they may be situated. “*

The object of the 1885 Fund was:

“To carry the Gospel to such regions of London as are most spiritually destitute and degraded”

The 1988 Opinion notes that the 1885 Fund did not replace the 1861 Fund and both continued to exist until both funds came to be administered by the same London Committee. At this point, the funds continued and remained separated under the new titles of “Sites and Buildings” and “Work and Workers”.

Whilst differing as to the date (1910 or 1921), both Counsel opinions agree that early in the 1900s the 1861 Fund and the 1885 Fund merged to form the London Mission and Extension Fund (“the LME Fund”). Regulations were established for the LME Fund. Regulation 1 provided:

“This Fund shall assist in the acquisition of sites and the erection of Wesleyan Methodist premises within the City and Metropolitan Police District of London.

N.B.- Where large industrial and residential populations are found just outside the Metropolitan Police District, the Committee may, in special cases, include these within the scope of the Fund”.

This object is similar to that of the 1885 Fund but not exactly the same. The 1988 Opinion also notes that an appeal was launched for £150,000. It appears £148,000 was raised by 1925. This sum appears to have been depleted by 1939.

The 1986 Opinion states that the Conference directed the preparation of a statement of the constitutional practice and discipline of the Methodist Church (“the CPD Statement”). The CPD Statement was adopted in 1951 and set out the revised objects of the LME Fund in Standing Order 159, which were as follows, (in particular (b) and (c)):

“S.O. 159. London Mission Committee

1. (a) The London Mission Committee shall supervise and co-ordinate the work of the Circuits in the London Mission.

(b) The Committee is directed to give advice and render assistance if requested in respect of churches in Inner London which are in Circuits other than London Mission Circuits.

(c) The Committee is empowered to make grants towards the purchase of new sites, the erection of Methodist Buildings and the maintenance of workers

(i) in Circuits which are included in the Metropolitan Area

(ii) in the following Circuits which are partly included in that area...

(iii) in the following Circuits which are wholly outside that area ... (This list of Circuits shall be reviewed by the Conference from time to time.)”

The 1988 Opinion also states that Standing Order 159(3) provided that:

“The Committee shall assist in the acquisition of sites and the erection of Methodist premises within its area”.

and suggests that the wording of Standing Order 159(1) was actually:

“The Missions of the Methodist Church in the City of London and Metropolitan Police areas shall act under the direction and with cooperation of The Committee of the London Mission and Extension Fund”

This wording altered the objects of the LME Fund again, but, as explained above, this would only affect monies coming into the LME Fund after the Standing Order came into effect.

At some point the LME Fund became known as the London Mission Fund. Counsel’s opinions, whilst not exactly the same in detail, broadly agree on the further changes over time to Standing Orders meaning that each time there was a change to the Standing Order the restrictions affecting the monies then raised for the LMF changed with a new restricted pot of money being created.

Alterations to the Standing Orders (and therefore the objects of the LMF) referred to by Counsel are:

- In 1958 Standing Order 159(c) provided:

“The Committee is empowered to make grants towards the purchase of new sites, the erection of Methodist Buildings and the maintenance of workers

(i) in Circuits which are included in the Metropolitan Area

(ii) in the following Circuits which are partly included in that area...

(iii) in the following Circuits which are wholly outside that area ... (This list of Circuits shall be reviewed by the Conference from time to time.)”

- In 1951 or 1969 (Counsel disagree on the date) a change was made to include:
“The Committee is directed to give advice and render assistance, if requested, in respect of churches in Inner London which are in Circuits other than London Mission Circuits”
- The 1986 Opinion refers to the Conference widening the area of benefit in 1972.
- The 1986 Opinion states that Standing Orders in 1983 put the objects of the LMF as:

“When it is proposed to erect premises or carry out work in the area of the London Mission ... the board may make grants out of the fund to assist the erection or the carrying on of the work on such terms as the Conference, on the recommendation of the board, may direct.”

(It should be noted that the two Opinions do broadly agree in content, even if the source and dates referenced differs.)

- In addition Standing Order 363 was amended to reflect an amalgamation of the four London Districts in 2006 and there may have been other alterations between 1988 and the present day – we have not had the opportunity to check through the different versions of the Standing Orders over that time period.
- There is also a reference in the 1986 Opinion to the “London Office Endowment” not being available for immediate application i.e. possibly permanent endowment, but with no further details. The indication is that the rest of the LMF is not permanent endowment. This would need to be clarified i.e. that none of the LMF is permanent endowment and that all of it is expendable.

Next Steps

It is clear from the changes to the objects of the LMF summarised above that the LMF consists of many pots of money subject to broadly similar but slightly different restrictions. We assume that it would be impractical (impossible?) to identify the different pots of money subject to the different restrictions and to work out which still remain to be spent. Therefore, the objects of the LMF will need to be altered/clarified to provide that the whole of the LMF is held for the same charitable purpose, as a restricted fund of the Methodist Church but administered for the Church by the London Committee.

The Charities Act 2011 provides that the objects of restricted funds can be altered as follows:

- if the gross income of the restricted fund does not exceed £10,000 in the previous financial year then, provided certain criteria are fulfilled (for example, the trustees are satisfied that it is expedient in the interests of the restricted fund for the purposes to be altered,) the trustees (in the case of the LMF, the Conference) can resolve to change the purposes of the restricted fund. The Charity Commission must be informed of the resolution and given a statement of the trustees’ reasons for passing it. The Commission then has a period to object. It may also ask for more information, and insist that public notice is given; or

- if the gross income of the restricted fund exceeded £10,000 in the previous financial year then the trustees can make an application to the Charity Commission asking it to change the purposes of the restricted fund using its powers to make a cy-près scheme. The Charity Commission can make a scheme to change the purposes of a restricted fund if, for example, the original purposes of the fund cannot be fulfilled.

The Methodist Church can, therefore, seek to follow one of the above processes to clarify the objects of the LMF and we would advise that it does so to ensure that the LMF is being used for the correct objects. The Church should ensure that the objects it now seeks puts in place reflect, as far as practicable, the LMF's historical objects, whilst also enabling it to continue the work it is/wishes to focus on. The Church would also need to clarify whether any part of the LMF is permanent endowment before commencing either of the above processes.

In relation to how the LMF is then administered i.e. decisions on expenditure in line with the objects, day to day administration delegated to the London Committee etc. this can continue to be detailed in the Standing Orders.

Going forward Standing Orders must not seek to alter the objects of the LMF, including any geographical limitations. This should only be done using the process in the Charities Act 2011 as set out above otherwise the LMF will again consist of different pots of money with different restricted uses. This is to be avoided.

Anthony Collins would be happy to assist further in revising the objects of the LMF if that would be of assistance.

Anthony Collins, Solicitors LLP 12 December 2019

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