

Power to vary the application of Standing Orders to Methodist premises that are subject to a commercial lease

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Status of Paper	Final
Action Required	Decision
Draft Resolutions	As set out at the end of the report.

Summary of Content

Subject and Aims	To enable Methodist premises no longer required for model trust purposes to be leased on a commercial basis without needing to comply with the restrictions on alcohol, gambling and five yearly inspections. The key aim being to enable the best rent to be achieved when leasing premises.
Main Points	The policy proposes that where Methodist premises no longer required for model trust purposes are being leased to provide an income, the restrictions in Standing Orders on alcohol are lifted, lottery tickets and scratch cards can be sold and where a full repairing lease is entered into there would not be a requirement to undertake a quinquennial inspection.
Background Context and Relevant Documents (with function)	MC/14/10 Investment Property – Application of Standing Orders
Consultations	Trustees for Methodist Church Purposes

Summary of Impact

Standing Orders	Standing Order amendments would be required
Legal including impact on other jurisdictions	Consultation with other jurisdictions would be required if amendments are required to the Model Trusts

Power to vary the application of Standing Orders to Methodist premises that are subject to a commercial lease

1. The Council will recall that in January 2014 it directed the Connexional Team to undertake a review of the current restrictions on the use of Investment Property. This was as a consequence of concerns having been raised about the ability of local churches and circuits to achieve the best rent for the lease of Investment Property premises due to some restrictions imposed by the application of Standing Orders to such premises.
2. The Officer for Legal and Constitutional Practice has discussed this matter with the Property and Facilities Co-ordinator and the Legal Operations Manager at TMCP. It is clear that there are three Standing Orders that can lead to the difficulty when seeking to lease any Methodist premises for the best price. These are: SO 922 – restricts the consumption and sale of alcohol; SO 924 – restricts commercial gambling; and SO 952 – requirement for a quinquennial inspection.
3. It is proposed that the Council recommend to the Conference that provision be made for SO 922, 924 and 952 to be amended so that the restrictions do not apply in their entirety, when a commercial lease is being entered into of any Methodist premises which are no longer required for Model Trust purposes. The policy would only allow premises that are being leased on commercial terms and for the best price to be leased, for any Class of Use (see appendix), other than A4 Drinking Establishments eg public houses and wine bars or nightclubs. This would allow a lease to restaurants. Nor would a lease be permitted for a betting office/shop but other types of shop falling with A2 use would be permitted.
4. It is also proposed that the Methodist Council adopt a policy to allow a tenant of Methodist premises, where a commercial lease is being entered into, to sell lottery tickets and/or scratch cards where this is part of the tenant's business eg supermarket. No betting shops or gambling machines would be permitted. It would be possible for TMCP to ensure that any such policy was enforced in the drafting of the terms of the lease. A provision could also be included within any commercial lease that TMCP and the managing trustees must give consent to any change to the Class of Use of the premises being sought by the tenant, with the managing trustees retaining the ability to terminate the lease if the proposed Class of Use was contrary to this policy.
5. Another issue is the requirement that all Model Trust premises have a quinquennial inspection undertaken. It is suggested that local churches, circuits or districts should no longer be required to undertake a survey of the premises every five years where there is a full repairing lease (structural, external and internal repair). It is therefore proposed that the Council recommend that landlords of premises leased for a term of 10 years or more, for the best rent and on a full repairing basis do not have to undertake the quinquennial inspection required in SO 952.
6. The Council must appreciate in adopting such a policy that it is possible that premises which are clearly identifiable as Methodist premises could be leased out as a restaurant or as a supermarket. It is also important that the Council is clear that this proposed policy would only be applicable to Methodist premises no longer required for church purposes. The intention of this policy is to provide greater flexibility for local churches, circuits and districts wanting to lease premises on a commercial basis for the best rent achievable and where the premises are being retained to provide an income for the relevant Methodist body. It is not the intention of this policy to enable a local church or circuit to lease a property that is still being used for Model Trust purposes eg a community centre and Church hall, to avoid the restrictions on the sale and consumption of alcohol on Methodist premises. The key aim in proposing this new policy is that local churches and circuits can

obtain the best rent for their premises. There must be no continuing Model Trust use as defined by paragraph 13(b)-(n) of the Model Trusts, see Appendix.

7. Upon discussing with TMCP what would fall within the definition of commercial lease it is suggested that a commercial lease will be any lease of premises no longer required for any purpose in paragraph 13(b)-(n) of the Model Trusts, for a term of 10 years or more and where the best price is being obtained.

Investment Property

8. Another point that has arisen in discussions regarding this matter is the current definition of investment property.
9. SO 908 currently describes investment property as church property which either is let or for other reasons is not used for any of the purposes specified in heads (b) to (m) of paragraph 13 of the Methodist Trusts (in this Part call 'Methodist trust purposes') and which is in either event has not at any time while it has been church property been used for Methodist trust purposes."
10. The definition of investment property is currently only applicable in a minimal amount of circumstances as most premises have at some time been used for Model Trust purposes. The only benefit at the moment of being classified as investment property is that if the property is sold the CPF levy does not apply and the proceeds of sale are for local church purposes, rather than circuit purposes. The terminology "investment property" and "land held as an investment" causes much confusion and it is suggested that further work be undertaken to review whether it is still necessary to have land classified as "held as an investment" and what the continued justification is to exempt such property from the CPF levy.

*****RESOLUTIONS**

- 50/1. The Conference receives the report.**
- 50/2. The Council recommends to the Conference that where a commercial lease is being entered into of Methodist premises that are no longer required for model trust purposes, the restrictions on the sale and consumption of alcohol will be amended to allow a lease for any class of use other than A4 Drinking Establishments or a nightclub.**
- 50/3. The Council recommends to the Conference that where a commercial lease is being entered into of Methodist premises that are no longer required for model trust purposes, the restrictions on commercial gambling be amended to allow for the sale of scratch cards and lottery tickets as part of a tenants business, but not for a lease to a betting shop or an equivalent.**
- 50/4. The Council recommends to the Conference that where a full repairing lease for a period of 10 years or more is being entered into of Methodist premises that are no longer required for model trust purposes, there be no requirement for the managing trustees to undertake a quinquennial inspection of the leased premises.**
- 50/5. The Council recommends that the Conference direct the Law and Polity Committee to bring the necessary Standing Order amendments to the 2016 Conference.**
- 50/6. The Council directs the Connexional Team to review and report to the Council in January 2016 on the classification of land held as an investment and whether there continues to be a justification for exempting such property from the Connexional Priority Fund levy.**

Appendix

Model Trust 13

The trusts. Subject to the provisions of this Act and of this Schedule, the trustees shall hold the property upon the following trusts, or such of them as shall be capable of having effect having regard to the character and condition of the property, namely upon trust:

- (a) To apply, at the discretion of the managing trustees, any moneys available for such charitable purposes in the purchase of land or any chattel or other property for the purposes of a model trust amenity or a model trust operation or for any other purpose for which model trust property may be held or applied, or directed to be held or applied, under any provision of this Part of this Schedule;
- (b) To permit any place of worship to be used for religious worship and for public and other meetings and services held in accordance with Methodist practice and the provisions of the next following paragraph;
- (c) To permit activities for children and young people to be held in accordance with Methodist practice in any suitable part of the property, but if in a place of worship, only at such time as not to interfere with public worship;
- (d) To permit any further meeting to be held in or upon any part of the land comprised in the property only if the holding of such meeting is not contrary to Methodist practice;
- (e) To permit any day school to be used for the education of children and young persons under such system of management as the Conference may prescribe or approve or as may be required by law;
- (f) To permit any suitable building or part of a building comprised in the property to be used as an office, hostel, college, bookshop or other institution for or incidental to any purpose of the Church;
- (g) To permit any house or other dwelling to be used as a Circuit or District manse, or Connexional dwelling or for such other purpose of the Church as the Conference shall by Standing Order prescribe;
- (h) To permit any vestry, hall, classroom, kitchen, convenience, building, room, structure, or other appurtenance and any vacant land to be used for or in connection with any of the above purposes or for purposes ancillary to any of such purposes;
- (i) To permit any land laid out as a cemetery or burial ground to be used for such purposes;
- (j) To permit any land laid out as a playground to be used for such purposes;
- (k) To change the use or application of the property or any part thereof from any one or more of the above purposes to any one or more other of such purposes or to permit the property or any part thereof to be held, used or applied mainly for any one or more of such purposes and partially for any one or more other of such purposes;
- (l) To carry into effect any sharing agreement affecting the property or any part thereof and made after the commencement of this Act under the provisions of the Act of 1969;
- (m) To permit any land comprised in the property or any part of such land thereof when not required or expected to be required for any of the above purposes by the managing trustees, to be used or applied temporarily or occasionally or intermittently, but without creating any lease or tenancy, for any charitable purpose which is not contrary to Methodist practice;
- (n) To permit any chattel to be used in furtherance of or incidental to any purpose of a model trust amenity or model trust operation or for any other purpose for which model trust property may be held or applied or directed to be held or applied under any provision of this part of this Schedule; and
- (o) To hold the same or any part thereof for or incidental to any such purpose of the Church as the Conference may from time to time authorise.

Classes of Use

- **A1 Shops** - Shops, retail warehouses, hairdressers, undertakers, travel and ticket agencies, post offices (but not sorting offices), pet shops, sandwich bars, showrooms, domestic hire shops, dry cleaners, funeral directors and internet cafes.

- **A2 Financial and professional services** - Financial services such as banks and building societies, professional services (other than health and medical services) including estate and employment agencies and betting offices.
- **A3 Restaurants and cafés** - For the sale of food and drink for consumption on the premises - restaurants, snack bars and cafes.
- **A4 Drinking establishments** - Public houses, wine bars or other drinking establishments (but not night clubs).
- **A5 Hot food takeaways** - For the sale of hot food for consumption off the premises.

- **B1 Business** - Offices (other than those that fall within A2), research and development of products and processes, light industry appropriate in a residential area.
- **B2 General industrial** - Use for industrial process other than one falling within class B1 (excluding incineration purposes, chemical treatment or landfill or hazardous waste).
- **B8 Storage or distribution** - This class includes open air storage.

- **C1 Hotels** - Hotels, boarding and guest houses where no significant element of care is provided (excludes hostels).
- **C2 Residential institutions** - Residential care homes, hospitals, nursing homes, boarding schools, residential colleges and training centres.
- **C2A Secure Residential Institution** - Use for a provision of secure residential accommodation, including use as a prison, young offenders institution, detention centre, secure training centre, custody centre, short term holding centre, secure hospital, secure local authority accommodation or use as a military barracks.
- **C3 Dwellinghouses** - this class is formed of 3 parts:
 - C3(a) covers use by a single person or a family (a couple whether married or not, a person related to one another with members of the family of one of the couple to be treated as members of the family of the other), an employer and certain domestic employees (such as an au pair, nanny, nurse, governess, servant, chauffeur, gardener, secretary and personal assistant), a carer and the person receiving the care and a foster parent and foster child.
 - C3(b): up to six people living together as a single household and receiving care e.g. supported housing schemes such as those for people with learning disabilities or mental health problems.
 - C3(c) allows for groups of people (up to six) living together as a single household. This allows for those groupings that do not fall within the C4 HMO definition, but which fell within the previous C3 use class, to be provided for i.e. a small religious community may fall into this section as could a homeowner who is living with a lodger.
- **C4 Houses in multiple occupation** - small shared houses occupied by between three and six unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom.

- **D1 Non-residential institutions** - Clinics, health centres, crèches, day nurseries, day centres, schools, art galleries (other than for sale or hire), museums, libraries, halls, places of worship, church halls, law court. Non residential education and training centres.
- **D2 Assembly and leisure** - Cinemas, music and concert halls, bingo and dance halls (but not night clubs), swimming baths, skating rinks, gymnasiums or area for indoor or outdoor sports and recreations (except for motor sports, or where firearms are used).

- **Sui Generis** - Certain uses do not fall within any use class and are considered 'sui generis'. Such uses include: theatres, houses in multiple occupation, hostels providing no significant element of care, scrap yards. Petrol filling stations and shops selling and/or displaying motor vehicles. Retail warehouse clubs, nightclubs, launderettes, taxi businesses, amusement centres and casinos.