

## The Future of Wesley House, Cambridge

<b>Contact Name and Details</b>	Professor Judith Lieu, Chair of Wesley House Trustees <a href="mailto:jeslieu@btinternet.com">jeslieu@btinternet.com</a>
<b>Status of Paper</b>	Final
<b>Action Required</b>	Decision
<b>Draft Resolutions</b>	<p>63/1. The Council approves, on behalf of the Conference, the proposed amendments to the charitable objects of Wesley House as set out on paragraph 1.4 above and in accordance with clause 15 of the Foundation Deed.</p> <p>63/2. Whilst the Council notes that final consent to the sale and leaseback of the Wesley House site cannot be provided until the terms of the transaction are finalised, the Council approves in principle the sale and leaseback of the Wesley House site, in furtherance of the amended objects, and subject to the trustees acting in compliance with their obligations under the Charities Act 2011 in relation to the disposal.</p>

### Summary of Content

<b>Subject and Aims</b>	The report explains the recent developments relating to the proposals of the Wesley House Trustees for the future of Wesley House. The Council are invited to approve amendments to the objects of the trust and provide their in principle agreement to the sale and leaseback of the Wesley House site.
<b>Main Points</b>	<p>Section 1: Background and context</p> <p>Section 2: Recent developments</p> <p>Section 3: Legal analysis</p> <p>Section 4: Business plan</p>
<b>Background Context and Relevant Documents</b>	<p><i>The Fruitful Field Project</i> report to the 2012 Conference (Agenda pp643-760).</p> <p>Report of the Trustees to the 2013 Conference (Agenda pp 355-367) and the supplementary information (Order Paper pp 19-23).</p>

### Summary of Impact

<b>Standing Orders</b>	N/a
<b>Faith and Order</b>	N/a
<b>Financial</b>	The Trustees do not seek any support from the Connexion in relation to the steps outlined.
<b>Personnel</b>	No implications for the Connexional Team at present.
<b>Legal including impact on other jurisdictions</b>	The proposals which the Council is asked to approve have received the consent of the Charity Commission where required and comply with the requirements of charity law.
<b>Wider Connexional</b>	The proposals in this report seek to enable the Connexion to continue to make use of Wesley House's extensive resources in relation to scholarship, research and innovation.
<b>External (e.g. ecumenical)</b>	The Trustees also seek to maintain a relationship with the University of Cambridge

## The Future of Wesley House, Cambridge

### 1 Background and context

- 1.1 Members of the Council will be aware that the trustees of Wesley House have been considering the implications of the *Fruitful Field* report to the 2012 Conference and the decisions of that Conference for the future of Wesley House's charitable activities.
- 1.2 The decision of the 2012 Conference not to send accepted candidates to Wesley House after those allocated in 2012 made it necessary for the trustees to consider amendment of the trusts on which they hold the assets of Wesley House. To this end, they had opened dialogue with the Charity Commission regarding the grant of a scheme for application of those assets "cy-près" i.e. for purposes beyond the scope of the original trusts. Section 3 of this report gives further detail about the process of amendment.
- 1.3 Any amendment would of course be pointless if the approved new trusts did not enable the trustees to pursue activities that are both desirable and financially viable. Section 4 below describes the work undertaken on this front and what is now proposed for the future sustainability of Wesley House. As the report to the Conference made clear, the trustees have been concerned to identify a new role for Wesley House which is as close as possible to the intention and meaning of the original trusts.
- 1.4 The Council are reminded that the assets of the Wesley House trust are held "Upon trust to apply the same for the establishment equipment maintenance and endowment in accordance with and subject to the powers and provisions hereinafter contained of a college hostel or institution within the precincts of the University of Cambridge for the training in theology and the pastoral office of accepted candidates for the ministry of the Wesleyan Methodist Church."
- 1.5 The purposes which the trustees have proposed, and on which they sought the Charity Commission's views, are as follows:

*"1. The objects of the charity are to establish and maintain a college, hostel or institution within the precincts of the University of Cambridge for the training in theology and formation for ministries in a Wesleyan tradition of:*

- a) Accepted candidates for the ministry and ordained ministers of the Methodist Church worldwide; and*
- b) Lay members of the Methodist Church worldwide,*

*by providing or arranging for their tuition, academic supervision and mentoring and the provision of residential facilities in connection with such tuition, supervision and mentoring, subject to the requirements set out at clause 2 below.*

*2. The charity shall function as a post-graduate college enabling students to have access, as appropriate, to the benefits of University life and tuition, and applicants shall normally be required to hold an undergraduate degree (or equivalent) prior to being granted access to residence and/or tuition in the college, save that the Trustees shall have discretion to permit access to such number and proportion of students who do not already hold an undergraduate degree as they see fit."*

1.6 These purposes were formulated following a report to the Council in January 2013 explaining the trustees' general approach and discussion in March 2013 with representatives of the *Fruitful Field* Implementation Executive, at which the trustees were encouraged to proceed further. Subsequently, however, the trustees were informed on behalf of the Implementation Executive that advice had been received from the connexional solicitors, Messrs Potheary Witham Weld, that the Charity Commission was likely to take a different view of the amendments appropriate for a cy-près scheme. The trustees therefore decided not to invite the Conference of 2013 to approve the principles for a scheme as was set out in the trustees report to the Conference but to put more general resolutions to the Conference and to seek to clarify the Charity Commission's views.

1.7 The 2013 Conference:

(i) approved the Trustees approaching the Charity Commission to seek to clarify the legal situation prior to making a formal application for a scheme;

(ii) encouraged continued discussions between the Trustees and the Methodist Council, the Ministries Committee or other appropriate Connexional body to resolve uncertainties and to establish common ground;

(iii) delegated to the Methodist Council responsibility for making a formal response to any invitation to consultation received from the Charity Commission, after the Council has undertaken appropriate further consultation and exploration with the Trustees, the Ministries Committee and other appropriate Connexional bodies.

(iv) approved in principle that the whole or part of the Wesley House site should be sold or leased, whether or not subject to a leaseback of part in the case of a sale, to provide funds for carrying out the purposes of a cy-pres scheme and delegates to the Methodist Council its power of consent to such a sale or lease (such delegation being conditional, so far as necessary, on the making of a scheme pursuant to which it has power to enter into such a delegation).

## **2 Recent developments**

2.1 Since the Conference, the trustees have received a response from the Charity Commission to the cy-près application. The Commission's view is that, as the objects now being proposed by the trustees are still consistent with a purpose conducive to the original objects, no cy-près scheme is required. The trustees are therefore free to adopt those purposes, subject to obtaining the consent of the Conference, in accordance with the power of amendment set out in clause 15 of the original trust deed. The Charity Commission's response is set out in full at Appendix A.

2.2 In addition, the trustees have progressed further in their consideration of the business planning process for the revised scope of activity that they have in mind. Further detail on this is set out below. The trustees are currently in highly confidential and commercially sensitive discussions with their professional advisors and a prospective purchaser of the Wesley House site, with a view to disposal of the entire site and grant of leaseback of part of it.

2.3 An analysis of the legal position and the business case is set out below.

### **3 Legal analysis**

#### ***The purposes***

- 3.1 The trustees had not anticipated the decision of the Charity Commission, having understood that the decision of the Conference not to send candidates for initial training meant that a cy-près scheme would be required to amend the objects of the trust. Nonetheless, it has always been the trustees' intention to ensure that opportunities were not lost for the Methodist Church to make use of Wesley House's extensive resources in relation to scholarship, research and innovation, and it would clearly be not only unnecessary but also contrary to the original purposes to exclude candidates for ministry from the class of those who might benefit from Wesley House's continued presence in Cambridge. With this in mind, the objects they proposed to the Commission would encompass the original purposes of the trust deed even if, in practice, the range of activity which Wesley House undertakes extends more broadly than this.
- 3.2 The explanation of the Commission's approach, as the trustees understand the position, is that:
  - 3.2.1 Clause 15 of the Foundation Deed for Wesley House requires that any amendment to it shall be "consistent with a purpose conducive to the education in theology and the pastoral office of students for the ministry of the Wesleyan Methodist Church or of any body with which it may hereafter be united as aforesaid within the precincts of the University of Cambridge."
  - 3.2.2 The Charity Commission's consent to an amendment of the Foundation Deed is required under clause 15 (the Commission having been granted power by statute to exercise powers of the Court in relation to charities).
  - 3.2.3 The Commission has given its consent to the amendments proposed by the trustees on the basis that the criterion set out above is met, ie that the amendment is consistent with these purposes, and does not present a radical departure from them).
- 3.3 In addition to the consent of the Commission, an amendment of the original trusts also requires the approval of the Conference. The Council will note that the consent of the Conference can only be given to an amendment that is consistent with and conducive to the original purposes of the trust as set out at clause 15 of the Foundation Deed. Having received the consent of the Commission, the trustees therefore invite the Council to grant its consent to the revised objects now proposed as set out in paragraph 1.5, to enable Wesley House to carry out future activities which are consistent with those which it currently undertakes. The Council will wish to be appraised of the basis on which it may be able to grant such consent. The trustees are aware of the provisions of Standing Order 211(1)(a), which authorises the Council to act on behalf of Conference in between sessions of the Conference (provided its actions are consistent with the decisions of the Conference), and understands that Potheary Witham Weld has advised that this Standing Order is sufficient authority for the Council to exercise powers given to the Conference by trust deeds.
- 3.4 Trustees are mindful of the legal principles that apply in relation to the Council's role vis-à-vis Wesley House. The trustees are advised that a third party which is granted powers in respect of a charitable trust is in a fiduciary position in relation to that trust. In other words, its obligation is to exercise those powers solely in the best interests of Wesley House as a charity, and for no other purpose or interest (even if another purpose would be to the benefit of another charity).

### ***The site***

- 3.5 Turning to the question of the Wesley House site, the Conference has already approved in principle that the whole or part of the Wesley House site may be sold (albeit that at the time the necessity of a cy-près scheme was envisaged), and has delegated to the Council the power to grant consent to such a sale or lease.
- 3.6 The trustees are not yet in a position to invite the Council to consent to the specific terms of a disposal, as the business planning process and negotiations with the purchaser remain in process. Nevertheless, it is likely that the purchaser will wish to be reassured that negotiations can proceed, with a view to agreeing terms within the next few months, in order to progress their own plans for use of the part of the site which will be retained.

### ***Administration of the trusts***

- 3.7 The trustees considered it appropriate to include, in their application to the Charity Commission, a set of revised constitutional provisions which would replace those set out in the Foundation Deed, and which would provide for matters such as a quorum for trustee meetings and a process for dealing with conflicts of interest. These amendments to the Foundation Deed will, in due course, also need to be approved by the Council on behalf of the Conference.

## **4 Business plan**

- 4.1 We attach at Appendix B a letter from Paul Roberts, a qualified surveyor and independent consultant engaged by the trustees in connection with the strategic review of future options for Wesley House. The Council will see from this letter that the trustees have undertaken careful and deliberate consideration of the business planning and future viability of the opportunities open to them. The letter does not refer expressly to those opportunities which the trustees decided not to pursue – which included, for example, a relocation of Wesley House to another site entirely, the sharing of premises with a similar theological institution or college within Cambridge, or the possibility of a collaboration or joint venture with a commercial partner. None of these produced as clear a combination of strategic and financial benefits as the proposal now under consideration, and the last in particular foundered due to the present restrictive covenants on the Wesley House site. The Council will note, from Mr Roberts' letter, that the trustees are treating protection of their investment in the site as a condition of the sale, should there be any need to cease Wesley House's activities there.
- 4.2 The proposed transaction would release the funds necessary to undertake those activities and would also ensure that Wesley House retains its close connection with the University of Cambridge (as required by the purposes now approved by the Commission), and can continue to play a key role in the Cambridge Theological Federation – a crucial part of its current provision for theological, pastoral and theological training.
- 4.3 The trustees now need to proceed with the negotiations with the purchaser and concomitant business planning process during this academic year, in order to conclude terms of the sale by Easter 2014. It will then commence the necessary redevelopment works and arrangements with international partners in mid-2014, in order to be ready to admit applicants for October 2015.

**\*\*\* RESOLUTIONS:**

**63/1 The Council approves, on behalf of the Conference, the proposed amendments to the charitable objects of Wesley House as set out on paragraph 1.4 above and in accordance with clause 15 of the Foundation Deed;**

**63/2. Whilst the Council notes that final consent to the sale and leaseback of the Wesley House site cannot be provided until the terms of the transaction are finalised, the Council approves in principle the sale and leaseback of the Wesley House site, in furtherance of the amended objects, and subject to the trustees acting in compliance with their obligations under the Charities Act 2011 in relation to the disposal.**

**Appendices:**

- A) Copy email from Charity Commission to the trustees of Wesley House in response to cy-près application, 12 July 2013
- B) Letter from Paul Roberts of Turnberry Consulting dated 13 September 2013