Investment Property – Application of Standing Orders

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Status of Paper	Final
Action Required	Decision
Draft Resolutions	10/1. The Council directs the Connexional Team to undertake a review of the current restrictions on the use of investment property and to report to the Council no later than October 2014.

Summary of Content

Subject and Aims	The paper raises the question of whether the requirements and prohibitions contained in Standing Orders relating to property should continue to apply to investment property. The Council is asked to express a view on whether or not further work should be undertaken to explore this issue.
Main Points	The requirements of Standing Orders apply to all Methodist premises on Model Trusts and this includes investment property even where that property was only purchased to provide an income to the local Church or Circuit. The requirements and prohibitions in Standing Orders can limit the ability of a local Church or Circuit to achieve the best obtainable market rent.
Background Context and Relevant Documents (with function)	Law and Polity Committee paper – LP/12/01/02
Consultations	Trustees for Methodist Church Purposes Law and Polity Committee

Summary of Impact

Standing Orders	A change in policy would require amendments to Model Trusts and property related Standing Orders.
Faith and Order	None
Financial	A change in policy might encourage more properties to be classified as investment property. Contributions to the CPF levy may therefore decrease.
Personnel	None
Legal including impact on other jurisdictions	The current requirements of Standing Orders limit the ability of managing trustees to meet their obligations under Charity Law to achieve the best terms/rent.
Wider Connexional	None.

Investment Property – Application of Standing Orders

1. The Law and Polity Committee has been discussing for sometime the definition of Methodist premises as there is no definition of the term within the Model Trusts or Standing Orders. The discussions along with queries received by the Trustees for Methodist Church Purposes (TMCP) have led to the question being asked as to whether Standing Order requirements should apply to investment property even where the requirements and prohibitions might limit the rent that can be achieved.

Background

2. The vast majority of Methodist premises are held on the Model Trusts and this includes investment property. Investment property is defined in SO 908 as "land which is church property but which is either let or for other reasons is not used for any of the purposes specified in heads (b) to (m) of paragraph 13 of the Model Trusts (in this Part called "Methodist trust purposes") and which in either event has not at any time while it has been church property been used for Methodist trust purposes."

3. One advantage for local churches, circuit and districts of having property declared as investment property is that the Connexional Priority Fund levy is not payable on the sale proceeds from such property. The proceeds of sale from investment property under SO 945(2) are held for local Church purposes rather than in the Circuit Model Trust funds. However all other requirements and prohibitions contained in the Model Trusts and Standing Orders must be complied with as required by paragraph 21 of the Model Trusts.

The Issue

4. A common question that is raised with TMCP and the Conference Officer for Legal and Constitutional Practice is how a local church, circuit or district can be expected to achieve the best rent obtainable when Standing Orders continue to apply even when entering into a commercial lease of investment property. The key Standing Orders that lead to this question being raised are SO 922(1) which prohibits the sale or use of alcohol and SO 924 which restricts gambling on Methodist premises.

5. The issues were highlighted in a recent enquiry when three organisations put forward offers in return for the grant of a lease of investment property held on the Model Trusts. The property in question was Edinburgh Central Hall. The Managing Trustees had sold the upper floors which contained the 'church' but had retained the four ground floor 'investment' shops. The reason for retaining the shops was financial as the income received is 41% of the total income for the local church in each year. One of the leases of the shops was due to expire and the Managing Trustees instructed agents to look at offers from other potential tenants.

6. The Managing Trustees received 3 offers. The first offer was from the existing tenant who offered a rent of £35,000 p.a. with the term of the lease negotiable. Another offer was from a pharmacy which offered a rent of £35,000 p.a. in return for a lease being granted for a term of 5 years, with a tenant break clause in year three and with a 6 month rent free period. The final offer was from Sainsbury's which offered a rent of £42,500 p.a. in return for the grant of a lease for a term of 15 years with a tenant break clause at year 10 and a 6 month rent free period. Sainsbury's also required the ability to sell alcohol and lottery tickets.

7. The highest market rent was offered by Sainsbury's but to the local church's disappointment they could not enter into a lease with Sainsbury's due to the prohibition on the sale of alcohol and the sale of National Lottery tickets. The ability to achieve market rent not only impacted the rent the local Church would receive but also raised concerns about the ability of the managing trustees to comply with charity law requirements in these circumstances.

8. The concerns about the ability to achieve the best rent need to be weighed against the possibility that any policy change which allowed investment property to be exempt from Standing Orders might encourage managing trustees to use the policy to avoid certain requirements and prohibitions e.g. consumption of alcohol. Another question is whether all that managing trustees should be concerned with when entering a commercial lease is how to achieve the best price or whether ethical reasons for not letting to the highest bidder should on certain occasions prevail. These are all matters that need to be considered if the Council considers that further work should be undertaken to explore this issue.

View of the Council

9. This paper has been prepared to seek the view of the Council on whether the current policy that Standing Orders apply to investment property should be reviewed.

10. Should the Council consider this to be a matter for review, the Connexional Team, in consultation with TMCP, would need to undertake further work on exploring the possibilities of proposing a policy on this question which might then require amendments to Standing Orders.

***** RESOLUTION**

10/1. The Council directs the Connexional Team to undertake a review of the current restrictions on the use of investment property and to report to the Council no later than October 2014.