

Title deeds, trust deeds and other documents

1. The purpose of this note is to
 - describe some of the formal documents relating to churches' properties which are held by URC Thames North Trust ("TNT" or "the Trust")
 - give outline information regarding enquiries which Churches may have in relation to their title deeds: details of sites, boundaries and potential restrictions on the use of the property
 - draw attention to sources of additional information.

Title Deeds

2. TNT does not send out title deeds and documents it holds to churches for examination. When needed to answer questions about a property, they may be inspected by appointment at TNT's office, or, exceptionally, may be sent to a local solicitor acting for the church. Most questions can be answered, however, by TNT's officers.

Sites and boundaries

3. The details available depend mainly on the time at which the property was purchased. Many pre-1850 conveyances have a written description of the location and dimensions of the property, and often do not include a plan. Features of the site may no longer be identifiable. Purchases were commonly of an empty site on which buildings were to be erected. Later purchases usually have site plans but, again, defining features may not be identified.

Land registration

4. Land registration is a process operated by HM Land Registry. The benefit of registration is that it establishes for legal purposes the ownership of freehold land (and leases of more than 20 years) without routine need to refer to the documentation of previous dealings in the land. For many years, the Land Registry issued "Land Certificates" as evidence of ownership. Computerisation has led to the provision instead of an "official copy of register of title". Official copies are available on application to the Land Registry for any registered property on payment of the Registry's fee. Site plans are provided at an additional cost.

5. The land registration process began in the late nineteenth century, with gradual extension throughout England and Wales with property being registered for the first time when it changes hands. Consequently the property of many older churches was unregistered. However, registration of all property is to become compulsory from a date to be announced. In preparation for this the Land Registry is operating a scheme for earlier voluntary registration. The Trust has used this facility to register all unregistered properties which it holds for churches and Thames North Synod. Copies of the register entries and plans have been sent to the churches concerned.

Boundaries and restrictive covenants

6. Churches considering selling or leasing all or part of their sites for redevelopment are recommended to check with TNT regarding site boundaries, restrictive covenants and rights of way which may affect the formulation of proposals. The most significant restrictive covenants are those which define responsibility for maintaining boundary walls/fences and those which

may prevent the use of the site for non-church purposes. These are often quoted or referred to in registered titles. The plans provided with official copies of registered titles are on too small a scale to show the finer details of boundaries. Where boundaries are in issue, the Trust should be asked whether there is additional information in the original documents.

Statutory notices and approvals

7. Documents such as listed building notices, conservation area notices, planning approvals and tree preservation orders are all part of the formal record of the status of the property. Churches should ensure TNT receives for safe keeping originals of all such documents with copies also being held locally if so desired.

Terms of trusts

8. When an individual or a company acquires property for use by another person or organisation (such as a church), the property is held "in trust". The terms of the trust should be recorded in a "trust deed" or "declaration of trust". This may be incorporated in the conveyance when the property is acquired or in a separate later document. Sometimes property trusts become significantly out of date. The trustee owners at the time, or the Charity Commission on their behalf, may make a new declaration of trust.

9. The initial trust deed typically describes how the purchase was paid for, and the intended and other permitted uses of the property. It contains powers of sale, alteration and replacement, and the procedure for the appointment of new trustees. For a church, there may be provisions dealing with doctrinal matters, church meetings and the calling of ministers. Many of these provisions needed alteration as a consequence of the formation of the United Reformed Church. The URC Act 1972 dealt with this for all participating churches. The new trusts (slightly amended by the URC Act 1981 and for Scotland by the URC Act 2000) are reproduced in current form in The Manual (see section D) and on the URC website at www.urc.org.uk/manual/index.htm and summarised in the annex to this guidance note. There are separate trusts for

- places used for religious worship (including halls and ancillary accommodation)
- ministers' and other church workers' residences.

10. Proceeds from the sale or long-term lease of church properties, including manses, are held by the trustees, and remain subject to the property trusts applicable to the disposal. Consequently capital received from property disposals is held by TNT for use in accordance with church meeting decisions and Synod approvals.

Legacies and other gifts

11. Some legacies and other gifts provide for property or investments to be transferred, or money to be paid, to TNT to be used for the benefit of a named church. The testator or other donor may state whether the income is to be used for the church's general purposes, or for some specific purpose, such as the maintenance of buildings or worship, the payment of the minister or the relief of the poor of the congregation. The terms of the will constitute the trusts on which TNT holds the legacies. For other gifts, there should be a self-contained declaration of trust or a letter setting out the terms on which the gift is to be used. An appropriate document, preferably an original, is normally held by TNT.

Confirmation for audit/examination of accounts

12. Occasionally an external examiner of a church's accounts may ask for confirmation that TNT holds the title to the church's properties. With the registration of church properties as described in paragraph 5 above, provision of a copy of the "official copy of register of title" should suffice.

GN 3 Annex**Summary of statutory trusts of URC property**

- 1 Trustees are to allow, as the case may be:
 - (I) use of church premises for religious worship and instruction according to principles and usages of the URC, and for the promotion of other charitable purposes not inconsistent therewith, such use being primarily by the local church;
 - (II) use of residential property by minister, caretaker and other church worker or employee of the local church, and for any other religious or charitable purpose of the URC as the church meeting decides.

- 2 Subject to church meeting resolution and Synod approval, trustees may
 - (a) permit alteration, rebuilding or demolition;
 - (b) borrow money for (a);
 - (c) sell or mortgage all or part of the property in order to acquire other land and build on it for the local church or other charitable purposes of the URC;
 - (d) dispose of all or part of the premises for development under arrangements which may incorporate new church premises; any surplus money is to be applied as decided by the Synod for specified URC charitable purposes or dealt with as part of the general funds of the Synod;
 - (e) let part of the premises for not more than 28 years, income arising being for the general funds of the local church.

- 3 Trustees may permit, without creating any lease or tenancy, the temporary, occasional or intermittent use of all or part of the premises for any reputable purpose when the premises are not required for 1 above; income arising is for the general funds of the local church.

- 4 Trustees are responsible for upkeep and repair only to the extent of funds provided to them.

- 5 If the Synod determines that use of the premises is no longer beneficial and the premises should be disposed of, the trustees are to sell or let the premises as directed by the Synod; application of the proceeds is decided by the Synod as in 2(d).

- 6 Persons acquiring an interest in premises from trustees may accept, without further inquiry, a statement that the trustees are acting within their powers.

- 7 Procedure for the appointment and discharge of trustees (ie the property holding trustees such as TNT).

- 8 Provision for the church meeting to propose amendments to these trusts, which have effect if sanctioned by the Synod and the General Assembly.

This summary is for quick reference.
The full text is available in
the United Reformed Church Manual
and at www.urc.org.uk/manual/index.htm.