

Property and trusteeship

TRUST PROPERTY

- 15.01 All property belonging to the yearly meeting is held in trust to be used for its charitable purposes, either generally or for specific uses as determined by the donor. Some property is in the form of land and buildings, the remainder being held in cash and investments. Land and buildings can either be functional, being held by Friends for their own occupation and use (such as meeting houses and offices), or be investment property to produce income. When property is held on a perpetual trust, commonly referred to as an endowment, the capital must not be expended, but only the income it produces.

In legal terms the constituent meetings of the Yearly Meeting of Friends in Britain are charities for the advancement of religion and, as such, are subject to the requirements of the Charities Acts 1992 and 1993, or to the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990. Each meeting in England & Wales should be either registered with the Charity Commissioners or formally recorded and notified by Friends Trusts Limited as an excepted charity. In Scotland each meeting should obtain recognition by the Inland Revenue as a Scottish charity. This will enable the meeting readily to demonstrate its entitlement to the fiscal reliefs available to charities. It will also define the meeting as a charity unit for the purpose of trusteeship of property and for reporting and accounting.

It is possible for individual trusts and local meetings to be separately recorded as charities in their own right and there may be special circumstances where this is appropriate, but it is recommended that the area meeting should normally be regarded as the charity unit. This recommendation to record the area meeting as a charity embracing all its constituent meetings takes account of the fact that

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individual membership lies with the area meeting and of the advice (see 15.03) that property should be held on behalf of area meetings.

The services of the Charity Commission, or in Scotland the Inland Revenue, are available to trustees of charities for advice on all matters; and particularly for the establishment of 'schemes' to facilitate the working of charitable trusts, or to provide for a variation of their objects in cases where the objects for which they were founded have become obsolete or unworkable. The duty is laid on trustees of charities to consider seeking such variations instead of allowing trust income to accumulate unspent. For smaller trusts there are provisions whereby trustees can initiate a merger with another trust or expend capital without the need for a formal scheme.

Friends Trusts Limited

15.02 Friends Trusts Limited is a company which is limited by guarantee and does not have a share capital. It was incorporated in 1923 and is recognised as the trust corporation for The Religious Society of Friends in Great Britain. It is a registered charity, number 237698. The members of the Board of Management are appointed by Meeting for Sufferings and are not remunerated. The clerk of the Quaker Finance & Property Central Committee is a member of that Board ex officio. The registered office of Friends Trusts Limited is at 173 Euston Road, London NW1 2BJ.

The main object of the Company is to act as custodian trustee, where the terms of trust permit, of property and investments situated in any part of the world and held on trust for the benefit of or in connection with the Religious Society of Friends in Great Britain. In general it considers its function as holding, as distinct from managing, property and investments; any decisions, as regards both capital and income, are normally taken by the managing trustees of the meeting or other Quaker body to whom the property belongs, and Friends Trusts Limited then acts entirely on the instructions of such beneficial owner.

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For the duties of Friends Trusts Limited in connection with the sale or disposition of meeting houses and other property of which it is custodian trustee see 15.10-15.11

Trustees

- 15.03 All property and investments belonging to Britain Yearly Meeting and its constituent meetings must be managed by trustees on behalf of the meeting or other body concerned, to which reports should be made at suitable intervals. It is generally advisable that trusts should be held on behalf of area meetings rather than local or general meetings. A special arrangement applies in London & Middlesex General Meeting, where members of Six Weeks' Meeting act as trustees for property (5.08). Where trust property belongs to, or other trusts are under the care of, local meetings, the area meeting is to exercise a general oversight of them.

It is recommended that all property and investments of meetings in England & Wales should be held in the name of Friends Trusts Limited as custodian trustee of the Society, and not in the names of individual trustees. This will relieve meetings of the need to transfer ownership each time a trustee ceases to act and a new one is appointed. It means that Friends Trusts Limited will be the legal owner of the property but that the beneficial ownership and management will remain with the meeting or other Quaker body concerned. As a trust corporation Friends Trusts Limited is a permanent legal entity and this makes it easier for it to effect property transactions and to enter into legal contracts.

See also 8.03

- 15.04 Where property is held on the terms of a trust deed or Charity Commission Scheme there will be defined arrangements for the appointment of managing trustees. In other cases it is advisable for the area meeting to have a procedure for appointing and maintaining an adequate number of managing trustees, in order to ensure the proper day-to-day conduct of all the property matters for which the meeting is responsible.

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The managing trustees should be provided with rules or terms of reference which define their duties, the duration of their appointments and the extent to which they may take decisions without reference back to their appointing body.

The meeting may make individual appointments or, preferably, appoint the members for the time being of its finance and property committee (or of a similar committee) to serve as its managing trustees *ex officio*. Appointments as managing trustees should not be confined to those with long experience of property and financial matters but should be widely representative of the meeting. It is a criminal offence for a person to act as a trustee if he or she has an unspent conviction for any offence involving dishonesty or deception or is an undischarged bankrupt or has been disqualified from being a company director or trustee. Under certain circumstances it is possible for such disqualifications to be waived by the Charity Commissioners.

Among managing trustees, moreover, there should at all times be a sufficient spread of membership to ensure that there is at least one managing trustee belonging to each local meeting, to bring local knowledge to managing trustees' deliberations and to facilitate liaison with local meetings and their premises committees. Managing trustees may on occasion be invited to make representations on behalf of their local meetings, and on other occasions have to interpret to their local meetings decisions taken in the best interests of the area meeting as a whole. This is not an easy task; but it is a vital one, and plays an important part in our church government by maintaining good relations between area meetings and their local meetings.

- 15.05 Managing trustees are expected to conduct their meetings according to the Quaker business method (see chapter 3). Some Charity Commission schemes provide for majority voting but this provision would be exercisable only if trustees could not agree a minute made by their clerk discerning the sense of the meeting. Minutes are to be made in the meeting and accepted and signed in accordance with our church government.

Managing trustees should report to their area meeting at least once a year. They should also refer to the area meeting in session any major

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decisions, such as those involving the acquisition, disposal or major alteration of land or buildings.

The powers conferred upon managing trustees should not be delegated by them except in connection with routine matters or those with few or no financial implications. They may, for example, choose to delegate to local meetings and their premises committees the interior decoration and maintenance of buildings, and the general upkeep of gardens and burial grounds, subject to specified limits on expenditure which may be incurred without prior permission having been obtained from the managing trustees. Managing trustees should also satisfy themselves that adequate reporting arrangements are in place for them to supervise the exercise of delegated powers, and likewise for local meetings and their premises committees to be kept regularly informed of the policies being followed and decisions taken by the managing trustees.

For further information on trusteeship see the 'Treasurers' handbook

Investment of trust funds

- 15.06 Except where the trust deed specifically provides otherwise, the powers and duties of trustees are subject to the provisions of the Trustee Investments Act 1961. Full details of its requirements are set out in a leaflet available from the Charity Commission. Broadly, the act allows trustees to invest a proportion of their funds in the stocks and shares of certain qualifying companies incorporated in the United Kingdom, and also in certain authorised unit or investment trusts. When making any such investment the trustees must obtain written advice from a person whom they believe to be qualified by ability and experience to give such advice.
- 15.07 Friends will also need to take note of the guidelines issued by Meeting for Sufferings for ethical considerations in the selection of investments. When the fund to be invested is small it is difficult to obtain the necessary spread of investment except by participation in a unit trust or an investment trust; there are several such trusts in which the underlying investments conform to specified ethical

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criteria but not all of them are acceptable under the Trustee Investments Act 1961. Further information about ethical investment can be obtained by subscribing to the Ethical Investment Research Service (EIRIS), whose address may be obtained from Quaker Finance & Property.

See also 14.24 & 20.56-20.57

Records, trust accounts and property registers

- 15.08 Friends should ensure that the trusts on which legacies and other gifts are held are recorded in some way that will make future reference easy. A separate account should be kept in the books of the meeting, committee or other Quaker body for each fund held on separate trusts, so as to avoid any inadvertent expenditure of capital or income for a purpose for which it was not intended. All such funds, while being separately identifiable, should be included as an integral part of the annual report and accounts of the meeting, committee or other Quaker body which holds them in trust. Consequently they are subject to the examination, auditing and reporting requirements applicable to such accounts (14.22).

- 15.09 Area meetings and other owning bodies are recommended to maintain a register of properties and similar trusts; this register should note the original purposes of such trusts, any alterations agreed in such purposes, the names of trustees, the method of appointment of new trustees (15.04), and the whereabouts of the deeds and relevant documents. The safe-keeping of these documents should be entrusted to two or more Friends appointed for the purpose and the place of deposit should be known to Friends. It is advised that such registers should be examined at least triennially, being compared with the minutes of the area meeting to ensure that any alterations are properly recorded.

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Sale and other disposal of property

- 15.10 Buildings and land held on charitable trusts shall not be mortgaged, sold, leased or otherwise disposed of unless the trustees have first followed the procedure required by law. This normally entails obtaining a written report from a qualified surveyor acting exclusively for the charity, advertising the disposition as advised by the surveyor and being satisfied that the terms are the best that can reasonably be obtained. In certain circumstances, such as disposition to a person connected with the charity, it is necessary to obtain an order from the Charity Commissioners. Further information on the detailed requirements is obtainable from Friends Trusts Limited.

These regulations do not apply in Scotland where there are no restrictions on the disposition of charity land provided that it does not contravene the terms of the trusts. However it is recommended that meetings in Scotland should, as a matter of good practice, follow the procedure outlined above.

Disused burial grounds – especially those where there is no meeting house adjacent – have sometimes proved burdensome to area meetings. In such cases the possibility of sale should be considered, with due regard to the use to which the ground would be put. If the land has no immediately realisable value consideration should be given to a lease, possibly at peppercorn rent, to some person or body prepared to maintain it in good condition as an open space. Whilst a burial ground remains in the care of the meeting it is important to see that it is properly maintained and that others do not acquire the land through default. A memorandum is available from Quaker Finance & Property about the disposal of burial grounds and the removal of remains.

Area meetings or other owning bodies should consider and endeavour to assess realistically all the circumstances before offering for sale any land or buildings in connection with a meeting house. There have been cases in the past where a small meeting has been revived or one long discontinued has been reopened. It has become increasingly difficult to find suitable sites or existing properties that are available for new meeting houses. This may be an additional reason for retaining existing meeting houses in Quaker ownership, in case one day they may be required again.

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England and Wales

- 15.11 Before selling or leasing land which has been held for a specific purpose, such as a burial ground, it is necessary to give public notice of the intention and to consider any representations made about the proposal. In proceeding with any disposal the owning body and its managing trustees will be under a statutory duty to obtain the best terms available. Where Friends Trusts Limited is the custodian trustee of the property it is required to seal the conveyance or lease and will do so on receipt of the properly minuted instructions of the managing trustees. However the Board of Management of the Trust will need to be satisfied that the required procedure has been followed and that all costs arising in connection with the disposal will be met by the beneficial owner. In the case of a meeting house or other property which has been used for the purposes of the Society the proceeds of sale will form a permanent endowment and the capital must be retained for similar purposes in the future.

Scotland

- 15.12 The Charities Acts 1992 and 1993 and the remit of the Charity Commissioners do not for the most part apply to charities which are constituted under Scots law. Such charities are subject *inter alia* to the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990. Whilst the recognition of charities in Scotland is carried out by the Inland Revenue and the Lord Advocate, the regulations on trusteeship and accountability are much the same in substance as those which apply in England & Wales. However the only restrictions on the sale of meeting houses or burial grounds in Scotland and the use of the proceeds of sale are those determined by the trusts on which the property is held.

MEETING HOUSES

Certification and registration

- 15.13 Meeting houses in England and Wales should be certified as places of worship under the Places of Worship Registration Act 1855. Forms for this can be obtained from the superintendent registrar of births, deaths and marriages for the district in which the meeting house is situated. Such certification will establish the meeting house as a place of worship for the purpose of any legislation where evidence of use of the property is required. Places of public religious worship are exempt from the payment of non-domestic rates and there are significant concessions for other property used for charitable purposes. In order to ensure that the full entitlement is obtained it is necessary to inform the Local Valuation Office of the Inland Revenue and the rates department of the local authority of the nature and purposes of such property. There is no provision for the registration of places of worship in Scotland and liability to or exemption from rates is governed by the Local Government (Scotland) Act 1991.

Care of premises

- 15.14 A meeting house should not be regarded primarily in terms of bricks and mortar, or merely seen in relation to potential site value. Its real value derives from the worship and service of the meeting. Even so, our meeting houses no less than our own homes deserve our care, attention and imaginative thought, so that they may be attractive both to ourselves and to others. Care of our premises is an important and sometimes exacting responsibility, which should be exercised by or on behalf of the meeting to which it belongs. Managing trustees and premises committees should be vigilant so that small defects do not pass unnoticed and lead in the future to extensive and costly repairs. It is recommended that premises be inspected at regular intervals by a surveyor or architect. The Advisory Committee on Property, which is accountable to the

Meeting houses

Quaker Finance & Property Central Committee, can be approached for more detailed advice and the handbook which they publish consulted.

New meeting houses

- 15.15 In the provision of meeting houses, area meetings should, wherever possible, choose sites which allow for the greatest possible use by the whole community. The acquisition of older property for conversion to a meeting house may involve difficulties which should be assessed by a surveyor before purchase is considered by the area meeting. In contemplating the building of meeting houses, area meetings should have regard to the suitability of the building as a place of worship. Relevant criteria include simplicity of design, soundness of construction, access for people with disabilities and avoidance of extravagance.

Funds are available in suitable cases for making loans or grants, or both, to area meetings to meet part of the cost of building new meeting houses; the purchase and adaptation of properties to make them suitable for use as meeting houses; major alterations to existing meeting houses and major repairs to historic meeting houses. Information about the Meeting Houses Funds is obtainable from Quaker Finance & Property.

Use of premises

- 15.16 Area meetings are advised to permit and encourage the use of their meeting houses for educational and other suitable purposes which serve the needs of the people living in their neighbourhood. Such users should be expected to make an appropriate financial contribution to the running expenses and upkeep. It should be borne in mind that the primary purpose of the meeting house is as a place of public worship.

As premises used by the public, meeting houses must meet certain statutory requirements in respect of fire precautions, safety and hygiene. Gas and electrical appliances may need to be certified as

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correctly installed. All premises must be adequately insured, including third-party and accident insurance as well as buildings and contents insurance; the *Treasurers' handbook* should be consulted for more detailed advice.

In considering the proper use of their meeting houses, area meetings should be sensitive to the feelings of the worshipping community, whose members may object to the introduction of alcoholic drinks on to the premises, or to smoking or other practices, by other users of the meeting house which is the meeting's home. Lettings policies should be agreed between area meetings and local meetings, in respect of particular premises, and conditions made clear to prospective users. The use of Quaker premises by political parties, and by other religious or secular organisations with whose principles or practices Friends might not be in sympathy, will always require careful consideration and full consultation with Friends in the meeting most closely concerned. Particular care must be taken to avoid bookings by 'front' organisations with undesirable aims; the bona fides of new users should be checked. In all cases it is important to ensure that any publicity given to meetings held on Quaker premises makes a clear distinction between those organised by a meeting, committee or other Quaker body as such, and those for which other groups are responsible, in order to avoid confusion in the public mind.

Meetings and committees involved in the letting of Quaker premises should always bear in mind the need to minimise hurt to individual Friends, division among the membership and erosion of our distinctive Quaker identity.

BURIAL GROUNDS

Record of interments

- 15.17 Area meetings are advised to keep a careful record of their burial grounds and to maintain and regularly review plans of them containing details of the interments (see 4.40.c). The plan of burial plots and record of interments for each burial ground should be

Burial grounds

cross-referenced, as appropriate, to entries and indexes in the register of burials (see 17.12).

Closed burial grounds

- 15.18 A clear distinction must be made between those burial grounds which are available for further burials and those which should be regarded as closed, or available only for the interment of ashes. The scattering of ashes is permitted in closed burial grounds (see 17.11-17.13).

Other burial grounds

- 15.19 Where a meeting has made special arrangements for Quaker burials and interments in burial grounds not in Friends' ownership, it is advised to maintain close liaison with the relevant authority.

Gravestones

- 15.20 Friends are left at liberty to adopt the use of plain gravestones in any burial grounds; it being distinctly understood that, in all cases, they are to be erected under the direction of the area meeting; so that, in each particular burial ground, such uniformity is preserved in respect to the materials, size, form and wording of the stones, as well as in the mode of placing them, as may effectually guard against any distinction being made in that place between the rich and the poor.