

Church Property Measure 2018

Acquisitions of Churches, Church Sites, Churchyards and Burial Grounds

(1) Background

Part 3 of the CPM 2018 incorporates provisions previously contained in the the New Parishes Measure 1943 dealing with property acquired for church purposes. This memorandum explains how some of the more frequently used provisions of the Measure relating to churches, church sites, churchyards and burial grounds work in practice.

(2) Acquisitions

The Diocesan Board/Committee is empowered by the Measure to acquire the following by way of gift (including gift by will) or purchase:

- (a) *a church or a part of a church or any other building fit to be used as or to be converted into a church;*
- (b) *any land as a site for a new church or for a church to be substituted for an existing church, or for enlarging the site of an existing church;*
- (c) *any land for providing a new or extending an existing churchyard or burial ground;*
- (d) *any land required for providing access to or improving the amenities of any such church, churchyard or burial ground;*
- (e) *a building to be used as a parsonage house, or land as a site for a new building to be used as such or for land to replace a building currently so used or for enlarging the site of a building currently used as such;*
- (f) *land for occupation as a garden with a parsonage house or with a building to be used as such or for the enlargement of land currently used as such.*

Note For the purposes of the Measure, the word "land" includes an easement (such as a right of way or drainage) over neighbouring land for the benefit of a church, churchyard or burial ground.

Although the DBF concerned acts as the acquiring agency, on completion of the acquisition the property automatically vests in the incumbent of the benefice for the time being in his corporate capacity.

There are also powers under the Measure for the DBF to acquire:

- (g) *any building to be used as an (unconsecrated) place of worship or church hall, or both as a church or place of worship and as a church hall;*

any land for the site of a building to be so used or for enlarging the site of an existing building so used;

any land required for providing access to or improving the amenities of a building to be so used;

- (h) *any land required for providing vehicle parking space for use in connection with any church or place of worship, church hall, churchyard or burial ground.*

In these cases the transfer is, again, to the DBF concerned, but on completion the property will, with the consent of the appropriate diocesan authority, vest in that authority in trust for the PCC.

(3) **Legal formalities**

The incumbent may be a party to the transfer to give covenants. The PCC will also need to be a party in some cases, e.g. where it is paying the purchase price or where the vendor or donor requires it to enter into covenants (such as covenants to erect or maintain boundary fences). Incumbents and PCCs will need to appoint their own solicitors to advise them and will need to pay their own legal costs.

Upon completion the DBF's solicitor deposits the deeds in the diocesan registry and sends a copy to the incumbent for the parish records.

The Commissioners' consent will only be required where the transaction is with a connected person and /or where a written report on the proposed transaction from a qualified surveyor acting exclusively for the person or body acquiring the subject buildings or land has not obtained or considered to state that the terms on which the transaction are proposed are the best that can reasonably be obtained for that person or body. **To enable them to consider a transaction where their consent is required they require certain information and confirmations which are set out in the following annex.**

ANNEX

Information and confirmations required

Checklist

1	The address of the property including postcode and a good quality plan of the land concerned suitable for use in the deed of transfer or grant of easement based on (or accompanied by a second plan based on) an Ordnance Survey map on scale 1:1250 or larger. It should show the boundaries in relation to the adjoining land and give the hectarage or route of wayleave/easement . Architectural and/or engineering drawings are generally inappropriate for conveyancing purposes, unless supplemented by a proper location plan.	<input type="checkbox"/>
2	Confirmation that the PCC has agreed to any covenants required by the vendor or donor, e.g. the construction of boundary fencing.	<input type="checkbox"/>
3	If the land is subsequently to be consecrated, confirmation that the diocesan bishop (or archdeacon) has indicated his agreement to what is proposed.	<input type="checkbox"/>
4	The full name and address of the vendor/donor, and the name, address, DX number (if relevant), telephone number and reference of his solicitor.	<input type="checkbox"/>
5	The name, address, DX number (if relevant), telephone number and reference of any solicitor acting for the incumbent and/or PCC.	<input type="checkbox"/>
6	Full details of the terms provisionally agreed for the transaction, e.g. the price, any covenants to be imposed and/or rights to be reserved in favour of retained land.	<input type="checkbox"/>
7	A copy of the planning permission authorising change of use and, if necessary, erection of any new buildings. Such permission is necessary even for the use of land as a burial ground if it has not been used as such before. There would clearly be no point in going ahead if planning permission were not available. It is essential that the incumbent and PCC and their own advisers satisfy themselves that the scope of the permission and any conditions attached to it are acceptable from a local viewpoint. Confirmation (or otherwise) of acceptance by the PCC should be indicated.	<input type="checkbox"/>
8	A copy of the report from a qualified surveyor or the reason why one has not been obtained	<input type="checkbox"/>

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