



Church properties – do we need to register the title?

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A Joint Stewardship and Church Growth Trust Briefing Paper

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1 Introduction

More property transactions are registerable with HM Land Registry under the Land Registration Act 2002. This not only includes transfer of property, but also any mortgage or any lease of seven years or more. In due course it will also be necessary to register leases of three years or more. Since July 2009 any appointment of a new trustee for a Trust which owns property is also a trigger event for the title to a property being registered.

There are advantages to registering voluntarily and all trustees of charitable property need to consider sorting out any defects in their property title and ensure that they are up to date with their legal documentation.

2 Voluntary registration

Voluntary registration is possible. There are advantages in voluntarily registering title for your property, including:

- It ensures that current trustees are the registered owners of the property. Any future changes of trustees also need to be registered;
- It prevents anyone else from registering any part of the property (at least not without informing the trustees). Any further attempts by anyone else to register title for any of the property will be unlikely to succeed. The longer your title has been unchallenged the stronger your case;
- It reduces the risk of neighbours encroaching. Title registration will help prove your ownership;
- It is no longer necessary to rely on a bundle of paper deeds, which can be lost, damaged or destroyed. Your title will be recorded/registered with the Land Registry;
- The Land Registry fees for Voluntary Registration are 25% less than for Compulsory Registration. Current Registration Fee levels are shown in Appendix 1.

Registering title can be a simple and inexpensive process, particularly if this is done at the time of the property transaction. The identity of each of the trustees will need to be proved to the Land Registry. Your solicitor should be able to guide you through this.

3 Complications

Title registration however, is not always straightforward. We come across many complicated cases, all of which are best to be dealt with sooner rather than later. Here are some examples:

- The church building was conveyed 50 years ago to the trustees at the time of transfer. The title to the property has never been registered. Although new trustees have been appointed over the years, the property has never been transferred to the new trustees. For the property title to be registered in the current trustees' names, the property would need to be transferred from the original trustees to the current ones. If none of the original trustees are still alive, or cannot be traced, it may be necessary to obtain a Charity Commission order vesting the property in the current trustees.

- The original conveyance for the church property has been destroyed, lost or stolen and no copies are available. Statutory declarations (or statements of truth as they are now called) will be required from longstanding trustees or members of the fellowship. It may be that only possessory title will be granted by the Land Registry. The possessory title may be upgraded to title absolute if at any time the original documents are found or after a period of 12 years there has been no challenge to the title.
- The church had no title deeds at all. No one knew in whose name the church premises were held. After lengthy investigation it turned out that one of the well known church denominations owned the church, although they had had no contact with the church for many decades. Registration would have saved a lot of time in tracing ownership of the church property.

4 Charity registration

There is often confusion between registering a charity with the Charity Commission and registering title to the property with the Land Registry. The two registration processes are totally independent of each other. You do not have to be a registered charity to register title for the property. Likewise registering title will not make any difference to whether you need to register as a charity. The current requirement to register as a charity is complicated and there are a number of exemptions. These were reduced by the Charities Act 2006 (now superseded by the Charities Act 2011). In brief any charity that is not covered by the main denominational bodies and has income of over £5,000 per year is required to register with the Charity Commission. Once the charity is registered it is necessary to inform the Charity Commission of any changes of Trustee (although in practice they are happy to be informed on your annual return). More details of the requirements and advantages of registering as a charity are given in Church Growth Trust's paper entitled "Does Our Church Need to Register", which can be found on CGT's website.

5 Land Registry searches

In order to establish whether a property has been registered it is possible to do a Land Registry Search (of the index map). This is a fairly simple process of either completing a SIM form (see Appendix 2) or completing the property enquiry form on the Land Registry website <https://www.gov.uk/search-property-information-land-registry>. It helps to send a map of the property with the SIM form. The Land Registry will return a map showing any titles that affect the property or will give you the title number(s) online. You are then able to request by post or online the title register (details of the person(s) who has registered the title and any restriction or reservations on the register) and/or a plan using each title number. There is a small charge for this (online currently £3.00 for a title register and £3.00 for a title plan). You will need to complete form OC1 for a postal enquiry (see Appendix 3).

6 Mortgages and charges

A mortgage or legal charge is a potential claim against a property in order to discharge a debt or other obligation. The grant of a mortgage or legal charge gives rise to an obligation to register the title. Responsibility for registering a charge relating to a mortgage or loan lies with the person/body making the loan. It may save time and legal fees if the title is already registered because the title may be clearer and so require less investigation and, the less time spent on investigating the title and registering the title, the less the legal fees should be.

7 Leases

Long leases have been registerable for some time. Now leases seven years or longer must also be registered. This will extend to shorter leases in due course. When registering leases the relevant value used to calculate the registration fees is the highest annual rent receivable during the first five years of the term of the lease, plus any premium that may be paid. Fee levels are shown in Appendix 1.

8 Boundary disputes

Boundaries to the church property should be checked at least once every 10 years against the title registration to ensure that no encroachments have taken place. Any use of the registered property by another party (e.g. a neighbour maintaining a small area as a garden) should be formalised by at least a letter confirming that their use is by permission. This will prevent them claiming they occupied the property by prescriptive right.

9 Action

Action points to consider:

- a) Transfer the property into the current trustees' names and register the property title in their names. Repeat when new trustees are appointed.
- b) If there are no current trustees available, arrange for trustees to be appointed and the title registered.
- c) Ensure all future appointment of trustees, transfers, mortgages and registerable leases are registered.
- d) Check boundaries regularly and do not allow encroachment.

10 Other options

Custodian Trusteeship is a service offered by Church Growth Trust (CGT) where the legal title for the property is held in CGT's name (see CGT's Service Paper on Custodian Trusteeship on CGT's website). Although the local managing trustees will still make decisions concerning the property, there will be no need to transfer the property and re-register the title every time the trustees change. We include a service to store safely your legal documents. This has two advantages:

- You are saved the expense of making the new deeds required when trustees change;
- There is no risk that the property will remain vested in people who are no longer involved with the Trust and who may be difficult to trace.

The Charity Commission offers a similar service as Official Custodian.

Transferring the ownership of the property to a Charitable Company or Charitable Incorporated Organisation (CIO) may also be an option as the property is then held by a corporate body, rather than individual trustees. The corporate body will remain in place even if the officers/directors change. It is possible to convert a Trust into a CIO. (Please see CGT's paper on CIOs on CGT's website.)

Appendix 1 – Land Registration Fee (Scale 1) as at September 2005

Value of Registerable Interest	Normal Fees (Electronic Registration)	Normal Fees (Paper Registration)	Fees for Voluntary Registration (25% less)
£0 - £80,000	£20	£40	£30
£80,001 - £100,000	£40	£80	£60
£100,001 - £200,000	£95	£190	£140
£200,001 - £500,000	£135	£270	£200
£500,001 - £1,000,000	£270	£540	£400
£1,000,001 and over	£455	£910	£680

Appendix 2

Land Registry

Application for an official search of the index map

SIM

If you need more room than is provided for in a panel, and your software allows, you can expand any panel in the form. Alternatively use continuation sheet CS and attach it to this form.

Land Registry is unable to give legal advice but our website www.landregistry.gov.uk provides guidance on Land Registry applications. This includes public guides and practice guides (aimed at conveyancers) that can also be obtained from any Land Registry office.

See www.landregistry.gov.uk/contact-us/offices if you are unsure which Land Registry office to send this application to.

LAND REGISTRY USE ONLY
Record of fees paid

Particulars of under/over payments

Reference number
Fees debited £

Where there is more than one local authority serving an area, enter the one to which council tax or business rates are normally paid.

If no postal address insert description, for example 'land adjoining 2 Acacia Avenue'.

See fees calculator at www.landregistry.gov.uk/professional/fees/fees-calculator

Place 'X' in the appropriate box.

The fee will be charged to the account specified in panel 4.

1	Local authority serving the property: <input type="text"/>						
2	Property to be searched Flat/unit number: <input type="text"/> Postal number or description: <input type="text"/> Name of road: <input type="text"/> Name of locality: <input type="text"/> Town: <input type="text"/> Postcode: <input type="text"/> Ordnance Survey map reference (if known): <input type="text"/> Known title number: <input type="text"/>						
3	<table border="1"> <tr> <th colspan="2">Application and fee</th> </tr> <tr> <th>Application</th> <th>Fee paid (£)</th> </tr> <tr> <td>Search of the index map</td> <td><input type="text"/></td> </tr> </table> <p>Fee payment method</p> <p><input type="checkbox"/> cheque made payable to 'Land Registry'</p> <p><input type="checkbox"/> direct debit, under an agreement with Land Registry</p>	Application and fee		Application	Fee paid (£)	Search of the index map	<input type="text"/>
Application and fee							
Application	Fee paid (£)						
Search of the index map	<input type="text"/>						

If you are paying by direct debit, this will be the account charged.

Please note that the facility of issuing results electronically is not available at present. When it is, a direction will appear on our website and details will be given in Public Guide 1 and Practice Guide 10. Until there is a direction, you do not need to complete this panel to obtain an official copy in paper format.

Official copies issued electronically are in 'Portable Document Format' (PDF) which replicates the appearance of the hard copy version. You will need Adobe Acrobat Reader (which you can install free from www.adobe.com) to open the document.

Place 'X' in the box if applicable.

Any attached plan must contain sufficient details of the surrounding roads and other features to enable the land to be identified satisfactorily on the Ordnance Survey map. A plan may be unnecessary if the land can be identified by postal description.

WARNING

If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

Failure to complete this form with proper care may result in a loss of protection under the Land Registration Act 2002 if, as a result, a mistake is made in the register.

Under section 66 of the Land Registration Act 2002 most documents (including this form) kept by the registrar relating to an application to the registrar or referred to in the register are open to public inspection and copying. If you believe a document contains prejudicial information, you may apply for that part of the document to be made exempt using Form EX1, under rule 136 of the Land Registration Rules 2003.

4	This application is sent to Land Registry by
	Key number (if applicable): <input type="text"/>
	Name: <input type="text"/>
	Address or UK DX box number: <input type="text"/>
	Email address: <input type="text"/>
	Reference: <input type="text"/>
	Phone no: <input type="text"/>
	Fax no: <input type="text"/>
5	Issue of certificate of result of search in paper format where an email address has been supplied
	If you have supplied an email address in panel 4, then, unless you complete the box below, any certificate of result of search of the index map will be issued electronically to that address, if there is a direction under section 100(4) of the Land Registration Act 2002 by the registrar covering such issuing.
	<input type="checkbox"/> I have supplied an email address but require the certificate of result of search to be issued in paper format instead of being issued electronically
6	I apply for an official search of the index map in respect of the land referred to in panel 2 shown <input type="text"/> on the attached plan
7	Signature of applicant: _____
	Date: <input type="text"/>

Appendix 3

Land Registry
 Application by purchaser for official search with priority of the whole of the land in a registered title or a pending first registration application

OS1

Use one form per title.

If you need more room than is provided for in a panel, and your software allows, you can expand any panel in the form. Alternatively use continuation sheet CS and attach it to this form.

Land Registry is unable to give legal advice but our website www.landregistry.gov.uk provides guidance on Land Registry applications. This includes public guides and practice guides (aimed at conveyancers) that can also be obtained from any Land Registry office.

See www.landregistry.gov.uk/contact-us/offices if you are unsure which Land Registry office to send this application to.

Conveyancer is a term used in this form. It is defined in rule 217A, Land Registration Rules 2003 and includes persons authorised under the Legal Services Act 2007 to provide reserved legal services relating to land registration and includes solicitors and licensed conveyancers.

LAND REGISTRY USE ONLY Record of fees paid
Particulars of under/over payments
Reference number Fees debited £

Where there is more than one local authority serving an area, enter the one to which council tax or business rates are normally paid.

Enter the title number of the registered estate or that allotted to the pending first registration.

Insert address including postcode (if any) or other description of the property, for example 'land adjoining 2 Acacia Avenue'.

Enter the full names. If there are more than two persons, enter the first two only.

See fees calculator at www.landregistry.gov.uk/professional/fees/fees-calculator

Place 'X' in the appropriate box.

The fee will be charged to the account specified in panel 6.

1	Local authority serving the property:					
2	Title number of the property:					
3	Property:					
4	Registered proprietor/Applicant for first registration					
	SURNAME/COMPANY NAME:					
	FORENAME(S):					
	SURNAME/COMPANY NAME:					
	FORENAME(S):					
5	Application and fee					
	<table border="1" style="width: 100%;"> <tr> <th style="width: 70%;">Application</th> <th style="width: 30%;">Fee paid (£)</th> </tr> <tr> <td>Official search of whole with priority</td> <td></td> </tr> </table>	Application	Fee paid (£)	Official search of whole with priority		
Application	Fee paid (£)					
Official search of whole with priority						
	Fee payment method					
	<input type="checkbox"/> cheque made payable to 'Land Registry'					
	<input type="checkbox"/> direct debit, under an agreement with Land Registry					

If you are paying by direct debit, this will be the account charged.

	<p>6 This application is sent to Land Registry by</p> <p>Key number (if applicable): <input type="text"/></p> <p>Name: <input type="text"/></p> <p>Address or UK DX box number: <input type="text"/></p> <p>Email address: <input type="text"/></p> <p>Reference: <input type="text"/></p>
	<p>Phone no: <input type="text"/> Fax no: <input type="text"/></p>
<p>Place 'X' in one box only.</p> <p>For a search of a registered title enter a date falling within the definition of 'search from date' in rule 131 of the Land Registration Rules 2003. If the date entered is not such a date the application may be rejected.</p>	<p>7 Application and search from date</p> <p><input type="checkbox"/> I apply for a search of the individual register of a registered title to ascertain whether any adverse entry has been made in the register or day list since <input type="text"/></p> <p><input type="checkbox"/> I apply for a search in relation to a pending application for first registration to ascertain whether any adverse entry has been made in the day list since the date of the pending first registration application.</p>
<p>Provide the full name(s) of each purchaser or lessee or chargee.</p>	<p>8 The applicant: <input type="text"/></p>
<p>Place 'X' in the appropriate box.</p>	<p>9 Reason for application</p> <p>I certify that the applicant intends to</p> <p><input type="checkbox"/> Purchase</p> <p><input type="checkbox"/> take a Lease</p> <p><input type="checkbox"/> take a registered Charge</p>
<p>If a conveyancer is acting for the applicant, that conveyancer must sign. If no conveyancer is acting, the applicant (if more than one person then each) must sign.</p>	<p>10 Signature of applicant or their conveyancer:</p> <p>Date: <input type="text"/></p>

WARNING

If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

Failure to complete this form with proper care may result in a loss of protection under the Land Registration Act 2002 if, as a result, a mistake is made in the register.

Under section 66 of the Land Registration Act 2002 most documents (including this form) kept by the registrar relating to an application to the registrar or referred to in the register are open to public inspection and copying. If you believe a document contains prejudicial information, you may apply for that part of the document to be made exempt using Form EX1, under rule 136 of the Land Registration Rules 2003.

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