



Selling Charity Property

The Steps You Need to Take

Whenever you sell land or buildings belonging to a charity, you need to take the steps set out below. (The guidance below does not apply to other types of property that are not land or buildings).

1. Check Your Charity's Governing Documents

First of all you need to check the governing documents of your charity to ensure that you are permitted to sell the property. There may be a restriction in your charity's governing documents, or the deed under which your charity acquired the property that prevents it from being sold or that sets out requirements that you have to follow.

2. Obtain Formal Valuation and Marketing Advice

Section 119 of the Charities Act 2011 requires all charities to get a valuation report from a qualified surveyor (a fellow or a professional associate of the Royal Institute of Chartered Surveyors) who has experience in the area the property is located. The report (known as a Section 119 Report) must comply with the Charities (Qualified Surveyors' Reports) Regulations 1992 and will include far more detail than a normal valuation from an estate agent. It will cover the best means of marketing the property as well as advising on the price required.

The trustees must meet to consider the written report and decide how to proceed in light of it. If you do not wish to follow the recommendations in the report relating to marketing the property, formal legal advice must be sought before further steps are taken. (At this meeting, the trustees can also pass a resolution in accordance with Section 333 of the Charities Act 2011 agreeing that any two of the trustees can sign all the documentation relating to the sale on behalf of the others, avoiding the need for legal documents to be signed by all the trustees).

A template letter is set out at the end of this note that you can use to obtain an estimate from a surveyor for providing a Section 119 Report.

3. Market the Property

Marketing of the property should only normally begin after you have received the Section 119 report. This is because the Section 119 report should contain advice on

how to market the property and the price you ought to be looking to achieve. You should appoint estate agents to deal with the marketing of the property in the manner recommended by the surveyor. It is best practice to ensure that the estate agent and the surveyor are not connected, although in some cases that will not be possible. If there are no offers on the property equal to or above the Section 119 Report, you should go back to the surveyor and ask them to review their valuation. You should only sell a property at a price below the Section 119 report valuation if you have compelling reasons why that is in the best interests of the charity.

(Please note that under Section 117 (3) of the Charities Act 2011 it is possible to transfer a property for less than market value to a charity with the same charitable objects as your own charity. Please contact us if you require more advice on this point).

4. Consider Offers

The Charities Act 2011 requires your charity to accept the highest offer unless there are very good reasons for rejecting it. You cannot reject an offer just because it comes from another group whose beliefs or aims you don't agree with. If the offer is from a person connected to your charity, it is likely to require the consent of the Charity Commission and you should talk to your solicitor about this. Once an offer has been provisionally accepted, the trustees should hold a meeting formally recording that they are satisfied, having considered the surveyor's report that the terms of the sale are the best that can reasonably be obtained for your charity.

A letter template to your surveyor is available on the follow page.

Template Letter to Surveyor

[Date]

[Name of company]
[Address of company]

Dear [Insert Name]

Re: [Insert Property Address]

I should be grateful if you could provide an estimate for producing a report in connection with the sale of the above property that satisfies the requirements of Section 119 of the Charities Act 2011. A copy of Section 119 is enclosed for your information.

To satisfy the requirements of the Act, the report must:

- 1. Be produced by a fellow or professional associate of the Royal Institute of Chartered Surveyors;*
- 2. Be addressed to the trustees of [Insert name of your charity];*
- 3. Provide advice on how the property should be marketed to achieve the best price (or, if applicable, advice setting out why it should not be advertised on the open market);*
- 4. Provide sufficient information to enable us as trustees of the charity to determine whether any offer we receive for the property is the best that can reasonably be obtained; and*
- 5. Be produced in accordance with the Schedule to the Charities (Qualified Surveyor's Report) Regulations 1992, a copy of which is enclosed.*

I look forward to hearing from you.

Yours sincerely

[Insert sign-off]