

## Tricky issues with places of worship

The ownership of properties by faith communities needs to be clear so as to avoid conflict or confusion when changes occur.



**Holly Terry**  
Solicitor  
T: 020 7551 7630  
h.terry@bwbllp.com

Holly is a solicitor in the Charity & Social Enterprise team where she advises charities, not-for-profit organisations and businesses with a social purpose on a range of legal and commercial matters. She has a particular interest in advising faith-based charities and other mission-led organisations. Holly is a trustee of BeMORE and Together for the Common Good.



**Will Scott**  
Senior associate  
T: 020 7551 7855  
w.scott@bwbllp.com

Will advises a wide range of charities of all sizes including a number of household names, unions and educational establishments. He also advises private individuals on all aspects of property-related disputes, but with a particular specialism in landlord and tenant work.

### Holly Terry and Will Scott explain the issues that arise, and how to avoid problems

The bricks and mortar of places of worship that house the lives of religious communities become the homes for large, extended families. At times, we see these becoming a source of difficulty or conflict arousing fierce passion and deep hurt. Many of these disputes could be avoided by a clear understanding of the legal ownership of community property.

#### Property trustees

Religious communities that are unincorporated (without their own separate legal personality or limited liability, usually established by a trust deed) rely on individual trustees to hold community properties in their own names. These individual trustees are registered as owners of the community's place of worship, or other properties, (including staff housing) with HM Land Registry.

If registration has been undertaken correctly then the Land Registry will have noted that the individuals hold the property on trust for a religious community (and, if the community is a registered charity, will include a restriction on the sale of the property in line with the Charities Act 2011). However, there are still administrative requirements triggered by events in the life of the community. Communities should ensure that any individual who acts as a property trustee is aware of these requirements and can act appropriately when changes occur.

#### Role of property trustee

The role of a property trustee usually requires fairly little of an individual. It will involve the individual being registered as an owner of a property. They must act in accordance with their religious community's trust deed or constitution in their handling of that property.

In communities where individuals may have been very heavily involved in raising money to acquire a building (whether through their own donations or other fundraising efforts) and feel a strong sense of personal

connection to such buildings, it is important to be clear about the nature of such a trustee's 'ownership' of a property. This is not ownership in any sense that we would normally recognise – it is ownership for the benefit of others.

#### Death of a trustee

If a property trustee dies, they should be removed from the Land Registry's documentation (property title), as in certain circumstances the property could form part of a dead trustee's personal estate despite their ownership of the property being on trust for others.

**“The analogy of a religious community with a family is pertinent as most religious traditions recognise that their shared life creates an important bond. Honouring this bond should ideally be a consideration for any religious community that finds itself in dispute over the way that its assets are owned or used”**

#### Trustee moves away or leaves the community

If a property trustee moves away from the religious community, for whatever reason, then they should be removed as a registered owner of the community's property. This may also require the trustee to follow any procedure specified in the community's trust deed or constitution (which could be as simple as sending a letter to the other property trustees). Without removing them from the register they will remain as a property trustee even though they have resigned as a charity trustee.

#### A dispute arises between community members

If a dispute arises within a religious community concerning one of its properties, this obviously presents an issue to be resolved but should not, if properties have been properly registered, be a cause for undue panic.

Unless expressly restricted in the trust deed property



trustees do have the power to sell, let, or mortgage properties that they hold on trust. However, if the property has been correctly registered with the relevant restrictions (identifying that it is held on trust and subject to the restrictions of the Charities Act 2011), then the Land Registry would not register any transfer or charge on the property title unless the trustees have complied with the relevant statutory requirements.

If a situation involving a property trustee becomes completely intractable then communities should look to the trust deed or constitution that governs the ownership and use of the property – this may include a mechanism for removing trustees. If such a process is followed, it is important to remember to inform the Land Registry and amend the property title.

### Practical ways to deal with issues

#### Talk

The analogy of a religious community with a family is pertinent as most religious traditions recognise that their shared life creates an important bond. Honouring this bond, and the beliefs underpinning it, should ideally be a consideration for any religious community that finds itself in dispute over the way that its assets are owned or used.

A structured discussion of conflicts, perhaps facilitated by a trained mediator, should be an early consideration for communities in conflict.

#### Seek appropriate guidance

A religious community may also find it helpful to appeal to a senior figure or spiritual leader for guidance. Leaders can offer objective insight and will hopefully garner respect from all sides.

#### Look to your trust deed

If the deed does not contain clear rules for dealing with disputes among trustees about how to deal with the community's property, consider revising the deed to include this. Likewise your deed should include the power to review property trustees' authority and powers so that the way that trustees run and manage community property can develop over time and respond to the life of your community.

#### Amend your property title

When circumstances change, keep the title to any community-held property up to date.

#### Consider incorporation

The roles of the trustees of charitable companies limited by guarantee and charitable incorporated organisations are clearly defined and lead to less confusion. These structures also prevent individuals acting as trustees being held personally liable for all the organisation's debts. Companies and CIOs can also hold property in their own right, rather than having to do so through trustees.

If your community holds property but is not yet incorporated, it is a step well worth considering to provide future stability and clarity.