

Are you fully
complying
with the
Charities
Act when
dealing with
land and
property?

Briefing Note

The Charity Commission, the regulator of charities in England and Wales, recently concluded that the trustees of the Spiritualist Association of Great Britain were responsible for serious mismanagement in the way they disposed of the charity's London property in 2010.

Background

The Charity Commission first became aware of this case in 2013; over 4 years after some of the events took place. The Commission's concerns centered on the sale of the charity's property at Belgrave Square for £6 million to Platinum Property Investments Ltd a company registered in the British Virgin Islands (BVI). The sale took place on 23 December 2010 and then the property was immediately sold on by its new owners to another BVI registered company for £21 million.

Charity Commission Findings

The Commission's report concluded that the trustees failed to fulfil their legal duties and responsibilities towards the charity, and that 'the failures and breaches were not minor or technical in nature' but 'amount to basic and serious mismanagement'.

The report criticises the failure by the trustees to obtain a report from a surveyor who was suitably qualified as required under charity law for a disposal of this type. It found that the trustees failed to seek independent specialist advice about how to ensure the charity would benefit from a possible post-sale increase in the value of the property if a change in the use of the property and/or enfranchisement was secured, as happened here.

The inquiry's view was that the charity should have known that a commercial company would only purchase the property if it had good reason to believe it would secure enfranchisement or successfully negotiate a change of use. The inquiry also concluded that the trustees failed to take proper account of concerns raised by the charity's solicitor before the sale was completed.



This case highlights that disposing of charity land

can involve complex arrangements, which charities need to be careful about and obtain proper professional advice on. But even for simpler deals, it's a reminder of why it is so crucial that all charities and trustees understand the basic duties set out in our guidance.

Harvey Grenville

Head of Investigations
and Enforcement
Charity Commission

Issues for the Charity Sector

Charity trustees must always act in the best interests of their charity. When it comes to selling, leasing or transferring charity land, the law sets out clear requirements to ensure that transactions are properly managed in the charity's interests and that the charity trustees obtain the best value reasonable in the circumstances.

For most disposals involving a sale, lease or other disposal of an interest in land, the law requires that charity trustees obtain and consider a written report from a qualified surveyor, advertise the disposal following advice from the surveyor, and decide whether they are satisfied that the proposed terms are the best that can reasonably be obtained in the circumstances of the disposal. The surveyor must be appropriately qualified and the charity trustees must follow his or her advice on how to market the disposal (or not, if that is the advice). The charity must receive a written report that complies with the Charities (Qualified Surveyors' Reports) Regulations 1992. Charity trustees must ensure that the surveyor that they intend to appoint is appropriately qualified and understands the requirements of these regulations. They must also ensure that the surveyor they propose to appoint is able to act exclusively for, and in the interests of, their charity.

For professional advice on how to comply with the obligations set out in The Charities Act involving a sale, lease or other disposal of an interest in land, please contact:

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Stanley Hicks is a long established chartered surveying business originally founded in 1889 and has been based in the City of London since the early 1900's. Stanley Hicks are specialists in providing professional property advice in the ecclesiastical, charity and educational sectors to ensure Trustees comply with their obligations under the Charities Act 2011.