



Anglican Church Diocese of Sydney

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Mission Property - availability of community buildings for use by parishes and churches – 8 May 2003

Executive Summary

The purpose of this circular is to set out some of the work that has been undertaken by the Mission Property Committee to investigate the availability of community buildings for church planting and other ministry purposes.

The circular covers the following issues –

- advantages/disadvantages in using community buildings
 - suitability and safety of community buildings
 - insurance coverage for churches when using community buildings
 - entering into agreements to use community buildings generally
 - use of school facilities under the Department of Education's standard "Community Use Agreement"
 - development of a database containing information about community facilities controlled by local councils in the Diocese
- request for your comment and feedback in respect of further work that might be undertaken to better facilitate the use of community buildings for church planting and other ministry purposes.

ROBERT WICKS
Legal Officer

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Background

1. The Mission Property Committee ("MPC") was established by the Standing Committee in August 2002 to undertake a number of functions to advance the Diocesan Mission through the effective use of property.
2. The main function of the MPC is to acquire land for ministry purposes in areas of the Diocese which are or will be experiencing a rapid growth in population. These areas are mainly new release areas but will also include some areas of urban redevelopment.
3. However if the initial goal of the Mission is to be reached, namely to see at least 10% of the population of the Diocese in Bible-based churches in 10 years, it will become increasingly necessary to use community buildings to establish new ministries across the Diocese to supplement ministries undertaken from parish and church property.
4. Consequently the MPC is also required to investigate the availability of community buildings for use by parishes or churches and to assist parishes and churches to obtain the use of such buildings.

5. This circular sets out some of the work that has been undertaken by the MPC about the use of community buildings. This information is provided to encourage churches to consider how they can use community buildings for church planting and other ministry purposes in fulfilment of the 2nd of the Mission policies recently adopted by the Synod, namely –

“To enable parish churches to expand numerically, equip and nurture their members, and become the mother churches of as many fellowships and congregations as possible; and also to take further initiatives to create fellowships by penetrating structures of society beyond the reach of parish church with the gospel.”

Advantages/disadvantages in using community buildings

6. The advantages in using community buildings for church meetings may include the following –

- reduced responsibility/cost in respect of maintenance and upkeep of the buildings,
- flexibility for growing/changing congregations,
- church plants are not limited by the availability of parish property,
- community buildings may be an appropriate and non-threatening meeting place for unchurched/niche groups.

7. **The disadvantages may include the following –**

- “packing/unpacking time” involved in using community buildings shared with others,
- potential difficulty in “building a community” around facilities shared with others,
- planning difficulties associated with uncertain duration of use of community buildings,
- buildings may not include ideal/purpose built facilities (eg for children’s ministry etc),
- rental costs could be better utilised to fund ministry positions (eg student ministers etc),
- security arrangements (ie deciding who unlocks and locks up and ensuring this is done properly each time the building is used to avoid setting off alarms etc).

Is a community building suitable and safe?

8. A careful assessment of the suitability and safety of a community building should be undertaken by the parish before it decides to use the building. This will be particularly important if the proposed use is for an extended period or involves a large number of people.

9. The suitability of a building and, to some extent, whether the building is safe, will depend on the purposes for which the church intends to use the building.

10. Some of the issues relevant to assessing the suitability and safety of a community building are set out in [attachment 1](#).

Insurance coverage when using community buildings

11. The owner of a community building may ask to see a copy of the church’s liability policy or request a copy of it. The Property Trust does not give copies of the policy but issues a “certificate of currency” as evidence of insurance cover.

12. A certificate of currency can be requested from the Insurance Officer by giving at least 2 weeks prior notice. The Insurance Officer, Cindy Wong, can be contacted on 9265 1679 or at cpw@sydney.anglican.asn.au. Details about the proposed use of the building and who requires the certificate must be provided before the certificate can be issued.

13. The diocesan public liability policy provides coverage for churches and parishes in respect of amounts for which the officers of the church or parish may become legally liable to pay by way of compensation to another person for unexpected or unintended personal injury or property damage. It is important to bear in mind that the coverage provided by the diocesan policy is not absolute. The policy does not cover claims in a number of circumstances including claims relating to –

- workers compensation
- hold harmless obligations

- vehicles used on public thoroughfares
- asbestos removal
- registered vehicles
- fines or penalties

Further information about the public liability policy can be obtained from the Insurance Officer.

Agreements to use community buildings generally

14. The owner of a community building will usually require the user to sign a licence agreement before the building can be used. Sometimes the agreement will be a formal document containing the full range of conditions applicable to the use of the building. Sometimes the agreement will be in the form of an application to use the building. There may be little scope to have the terms of the agreement changed, particularly if the owner uses a standard form.

15. In general, the churchwardens of the church are the relevant office holders to sign any licence agreement on behalf of the church. Before the churchwardens sign any agreement to use a community building, it is generally advisable for the churchwardens –

- to seek professional advice as to the acceptability of the terms of the agreement, and
- to obtain the consent of the parish council to sign the agreement on behalf of the church.

16. As indicated above the diocesan public liability policy does not cover claims relating to a hold harmless obligation. Hold harmless obligations include any undertaking given by or on behalf of the church –

- to release (ie agree not to take action against) the owner of the building in relation to a liability that the owner might otherwise have in relation to the church's use of the building, or
- to indemnify (ie agree to meet the cost of) any liability that the owner of the building incurs in relation to the church's use of the building.

It is generally not advisable to enter into an agreement which contains a hold harmless obligation without first seeking legal advice. To do so may expose those signing the agreement to a risk of liability which is not covered under the diocesan liability policy.

17. Before any longer-term agreement (eg greater than 6 months) is signed by the churchwardens, consideration should also be given to seeking the inclusion of provisions which –

- state that the churchwardens are entering into the agreement in their capacity as churchwardens on behalf of the church and not in any other capacity and which limits their liability under the agreement to funds under the control of the church, and/or
- enable a person who ceases to be a churchwarden during the term of the agreement to be replaced by a newly appointed churchwarden as a party to the agreement.

Suggested wording for such provisions can be obtained by contacting the Legal Officer at rjw@sydney.anglican.asn.au or on 9265 1671.

Use of school buildings under the standard "Community Use Agreement"

18. In many cases, off-site buildings used by churches will be school halls or other school facilities.

19. The Department of Education has a policy which encourages community organisations to access to school facilities out of hours for appropriate purposes. Subject to availability and suitability of the facilities, school principals have the discretion to allow access for the use of the facilities, either at a nominal charge or at rates which would allow the recovery of utility charges and maintenance costs.

20. The Department has developed a standard form "Community Use Agreement" which should be used by school principals to regulate the use of school facilities. A copy of a brochure about the community use of school facilities and a copy of the standard form community use agreement can be obtained by contacting the Legal Officer at rjw@sydney.anglican.asn.au or on 9265 1671.

21. The Department has agreed to certain changes to the terms of the standard Community Use Agreement to accommodate the use of school buildings by Anglican church groups. The applicable changes depend on whether the school has taken out Community Use Insurance cover arranged by the Department referred to in clause 6(i) of the standard agreement. The Department has indicated that approximately 2,132 out of its 2,240 schools have taken out this cover. If the school has taken out this insurance cover, clauses 5 and 6 of the standard agreement should be changed in the manner shown in [attachment 2](#).

22. If the school has not taken out the Community Use insurance cover, clauses 5 and 6 of the standard agreement should be changed in the manner shown in [attachment 3](#). The information about the diocesan insurance policy referred to in clause 6(ii) also needs to be completed. This can be obtained by contacting the Insurance Officer on 9265 1679 or at cpw@sydney.anglican.asn.au.

23. If the school raises an objection to the applicable changes being made, you should contact the Legal Officer on 9265 1671 or at rjw@sydney.anglican.asn.au so that steps can be taken to resolve the objection with the school and the Department.

24. Before signing any Community Use Agreement, you should also ensure that the other terms of the agreement are acceptable (see 14 - 17 above).

Community buildings controlled by local councils

25. Another important source of community buildings are those owned or under the control of local councils.

26. To assist churches identify local council buildings which are potentially suitable for off-site ministry purposes, a database has been developed which currently contains information for about 516 community facilities controlled by 49 local councils in the Diocese.

27. The database can be searched in various ways including on the basis of –

- capacity of facility (including multiple capacities)
- location by suburb
- location by region
- relevant local council

28. It is intended to update the database every 12 months. If you would like a particular search made on the database to identify facilities potentially suitable for off-site ministry, you should contact Nerida Paul on 9265 1545 or at nkp@sydney.anglican.asn.au.

Your comment and feedback

29. The above information represents the initial work undertaken by of the MPC on the availability of community buildings for use by parishes and churches.

30. The MPC would appreciate receiving comments and feedback from you and any suggestions for further work that could be undertaken to better facilitate the use of community buildings for the purposes of the Diocesan Mission.

31. Any comments or feedback can be forwarded to the Legal Officer at rjw@sydney.anglican.asn.au or by telephone on 9265 1671.

Yours sincerely

ROBERT WICKS
Legal Officer