



Vesting of Land in the Official Custodian for Charities

Guidance for completion of the Charity Commission's "Application to Vest Charity Land in the Official Custodian for Charities"

Our publication "**The Official Custodian for Charities' Land Holding Service**" (CC13) sets out all you need to know about vesting the title to your charity's land in the Official Custodian. If you are unfamiliar with this subject, we would strongly recommend that you read this publication. We have written these guidance notes on the assumption that you are familiar with what is involved. The following notes guide you through the process of completing the application form.

Section 1

Please provide the charity's registered name and number. If you are unsure about these, you can find them on the Register of Charities (www.charitycommission.gov.uk). If your charity is excepted or exempt from registration, please provide the charity's official name, the Inland Revenue's reference number and the reference number used by us when we were last in touch with your charity.

Section 2

By completing this declaration the trustees are confirming that they are satisfied that the property in question is land which is held on behalf of the charity for the charity's purposes, so it is important that you are confident about the facts contained in this declaration.

- (a) The charity's governing document will usually contain details about how the trustees are appointed. If it does not, the trustees should follow procedures set out in the Trustee Act 1925. If the trustees are in any doubt about the validity of their appointments, they should take legal or other professional advice.
- (b) Our publication "**The Official Custodian for Charities' Land Holding Service**" (CC13) provides further information about the sort of legal interest that a charity might hold in land and the rare circumstances in which a charity cannot vest that interest in the Official Custodian.
- (c) Again, the charity's governing document will usually set out the requirements which have to be met for a decision to be valid – this will include the minimum number of trustees needed at a meeting (if the decision is made at a meeting) and how many votes are needed in order for a decision to be made.
- (d) It is important that all those who are trustees and all those who hold title to the land on behalf of the charity (these are sometimes the same people) are aware of the proposal to vest the title in question in the Official Custodian. Taking part in the decision to vest the title is sufficient to meet this requirement, but those who aren't involved in it must be notified. If the charity does not do this, then the Charity Commission must and this will delay the completion of the process by around 6 weeks.
- (e) Please check that you understand the various statements contained in the declaration and that they are correct.

Section 3A

List here the full names and addresses of those charity trustees who were not party to the decision to vest the title to the charity's land in the Official Custodian, and the dates on which you informed them of the decision (or proposed decision).

Section 3B

Here you need to list the full names and addresses of all those who currently hold the title to the land to be vested. It may be that some of these people are also charity trustees who you've listed at Section 3a – where this is the case, please list their details in Section 3a and Section 3b. Again, please note the dates on which you informed them of the trustees' decision to vest this land in the Official Custodian.

Section 4

1. It is important to be certain that the land listed in Section 4 is accurately described and that it belongs to the charity. The Commission does not have the power to decide matters of ownership. The trustees should take appropriate legal advice if they are at all unsure about this.
2. The following are examples of how to describe the charity's interest in land. The examples are fictional but they should equip you to identify the land in question and the level of detail required:

A. *53 Mill Lane, Crediton, Devon*

(this is usually sufficient for properties with a postal address);

B. *Land at Mill Lane, Crediton, Devon. The land is described in a conveyance of 12 December 1878 which was made between (insert names of parties)*

C. *Land containing 831.89 square metres or thereabouts, situation to the rear of Belling House, Tuebrook, in the County of Merseyside with the building thereon known as Tuebrook Public Hall*

D. *Leasehold property known as Grave End Community Centre, situate off Hilluntun Road, Hilluntun, Newcastle-upon-Tyne, held for a term of 25 years from 4th April 2001, created by a lease of the same date*

(this is usually sufficient for land which is not registered and which does not have a postal address);

E. *Land registered at HM Land Registry under title number TX556123, known as Church Field, Church Land, Trepallen, Cornwall*

F. *Land with the building thereon known as Kirks Village Hall registered at H M Land Registry under Title number ME456345*

G. *Leasehold property known as Frysland Millenium Green situate at Burnledam, in the County of Lancashire, held for 999 years from 23rd July 1976 created by a lease dated 1st August 1976. The land is registered at HM Land Registry under title number LA457323*

(this is usually sufficient for registered land which does not have a postal address)

Section 5

We can accept an application signed by one or two people who have been authorised by the trustees to do so. It should be clear from the charity's records that the trustees have given this authority.

Once we have vested the land in the Official Custodian, the charity's trustees can then apply to the Land Registry to have their title registered in the name of the Official Custodian. If the land is unregistered, then we would encourage trustees to consider the benefits of registering the land before vesting, such as ensuring proof of title - please contact the Land Registry for details (see their website www.landregistry.gov.uk or check the phone directory under "Land Registry" for your local office).