

## Section 17

# DEALING WITH PROPERTY WHEN A PARISH IS DISSOLVED

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### The process of dissolving a parish is the responsibility of Synod

The process may be initiated by the congregation concerned or by the Synod. The oversight of this process lies totally with the Synod. MCPC is only involved in relation to the Synod's disposal (or retention) of the property of a dissolved parish under section 39 of the Methodist Church of New Zealand Property Act 1885 (1885 Act).

### What happens to the property of dissolved congregations?

There is a need for clarity around the notion of dissolution of a parish. Following dissolution, a parish may simply cease to exist (be 'closed down'), or it may be amalgamated with one or more dissolved congregations to form a new parish, or it may be incorporated into an existing, usually larger, parish.

- When a parish is dissolved, the Synod may, in some cases, decide to retain the property for its own use rather than dispose of it.
- If the parish has been closed down and no longer exists in any sense, then the Synod can dispose of the property and direct that the proceeds be used for mission purposes within the Synod area, e.g. for the planting of a new congregation or the development of a new mission field.
- If the dissolved parish is amalgamated with another dissolved parish to form a new parish, then the Synod must direct to what extent the property is to be held for the benefit of the new amalgamated congregation. The new amalgamated congregation would then make any further decisions on the property coming under its beneficial control in the same manner as other parishes.
- If the dissolved parish is incorporated into an existing parish, then the Synod must direct to what extent the property of the dissolved parish is held for the benefit of the enlarged existing parish. The newly enlarged parish would then make any further decisions on the property coming under its beneficial control in the same manner as other parishes.

### Legal issues that sometimes arise around the property

#### "Mine" versus "Thine" – whose assets are they?

The Church's assets, including its buildings, belong to the whole of the Methodist Church of New Zealand and are part of our mission. They do not belong to the people in the parish, either past, present or future. They 'belong' to the mission of the Church as discerned by the Church. That is why Synods and MCPC are involved in all major property decisions.

**When a parish is dissolved, the last members don't have the right to say what happens next.**

The fact that the property is for the benefit of the whole Methodist Church of New Zealand also means that the current people in the congregation do not have any greater rights over the congregation's assets on its dissolution than the rest of the Church.

In particular, the current members cannot decide to gift the property to a cause that they support, nor can they make their acquiescence to dissolution conditional on any particular decision. This includes money and other assets, as well as buildings and land.

## **Past gifts do not give rights to decide now**

Even if someone has given a generous gift, it does not limit the ability of the Church to change its discernment of how it should be used in the mission of the Church unless those limitations were accepted at the time of the gift and in writing (e.g. in terms of a will, or an agreement signed at the time).

The two most common arguments raised around property are some variants of:

- "My great-great-grandfather gave this building, so you now have to do what I say."

This is not true unless there are conditions in writing from the gift giver. Once a gift is given, it is given, and there is no way it binds the recipient to do anything in the future. The congregation's lawyer and MCPC have a record of dealings with the property, and so, between them, they can help sort out whether there were any conditions associated with past gifts.

- "The community gave money and/or met occasionally and/or loves this building, so you must do what the community says and/or give it to the community."

Even if the community did give money, it gave it knowing that it was going to the Methodist Church of New Zealand. Our buildings may, at our discretion, be used by the community, but the Methodist Church of New Zealand's mission is not about providing community assets.

Sometimes people threaten to take the Church to court using one or other of these arguments. While clearly, it pays to check they do not have a legitimate case; Church decisions should not be driven by fear of court action.

Similarly, in many cases, those who feel they are "losing" will go to the press. The Connexional Office can provide the Synod with professional help in managing this, and we suggest you discuss what is happening with them early in the process and certainly well before you need them. Church decisions should not be driven by fear of publicity.

## **Union and Cooperating partners may have legal rights**

When a Union or Cooperating parish is considering closure, the other partner Churches must be consulted through the Joint Regional Forum. If the parish is closed, a proportion of the parish's assets will go to the partner Churches involved. These proportions were agreed upon when the parish was first united and are adjusted anytime there is a change in the property of the parish. For this reason, ensure that the schedule of assets, which accompanied the original agreement, is up to date. The process in the Guide to Procurers must be used when a Union or Cooperating parish is considering closure.

## **Synod Responsibilities and MCPC's Requirements**

When a congregation is dissolved, the responsibility for decisions as to the disposal of the property of the dissolved congregation lies with the Synod, as previously stated. The Synod needs to inform MCPC of the decisions it makes about the property. Until the Synod does dispose of the property, it is responsible for all the issues arising out of owning a property, such as health and safety matters

and maintenance. If the Synod does not have the capacity to deal with these things, then it might be better for a neighbouring congregation to be charged with temporary oversight on behalf of the Synod.

## Options around Dissolving a Parish

There is a range of options that a parish should consider if it is going to recommend that the parish be dissolved. Below we provide the key options and relevant considerations:

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1. The parish is dissolved and incorporated into a larger Methodist Church of New Zealand parish:
    - Consider if this is a wise use of the resources of the Church.
    - Explain how this will advance the mission of the Church (see also 4. below).
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2. The parish is dissolved and becomes part of a new amalgamated Methodist Church of New Zealand parish:
    - Consider if this is a wise use of the resources of the Church.
    - Is the driving force 'mere survival', or is it a 'merger for mission'?
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3. The parish amalgamates with that of another partner Church:
    - Consider if this is a wise use of the resources of the Church compared to other new mission opportunities.
    - Is the driving force 'mere survival', or is it a 'merger for mission'?
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4. The parish is dissolved, but a new mission outreach is established in the same place:
    - This option would be worth considering if the parish believed the current parish was not reaching out into the community around it, but a new congregation or new approach may.
    - Consider how the new congregation would be formed and when the existing congregation and its leadership is not the primary driver of the new mission.
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5. The parish is dissolved:
    - Consider when and how this would happen, including practical guidance on the steps to be taken.
    - Consider in particular what will happen to the property and who will oversee this process.
    - Keep in mind the need for MCPC approval if the Synod wants to retain the property for its own use.
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