



Selling or leasing charity land for less than best price

There are two principal circumstances when you can dispose of your charity's land:

- for less than best price
- without the Charity Commission's consent
- without needing to fulfil the usual requirements - survey, advertising, etc

Firstly, where:

- you are leasing to a beneficiary of the charity, and
- the premises are to be occupied for the purposes of the charity

See:

[Section 1 Leasing to a beneficiary of your charity](#)

Secondly where, in selling, leasing or otherwise transferring land to another charity:

- you are carrying out the purposes of your charity and it is therefore a practical application of the charitable trust

or

- your charity has power through its trusts to sell, lease or transfer property to another charity

See:

[Section 2 Selling or leasing to another charity for less than best price](#)

There may also be other circumstances where it would be appropriate to accept an offer for less than the best price. For instance:

- where the overall offer is the best that can reasonably be obtained and the charity's surveyor recommends acceptance

If you and the other trustees have any doubts about whether you can do this, you should take legal advice.

1. Leasing to a beneficiary of your charity

Where you are:

- leasing to a beneficiary of your charity
- fulfilling the purposes of your charity
- charging less than best price

then

- you have to consider whether it is in the best interests of the charity to grant a lease

and

- you are still also subject to a duty of care

but you don't need

- the commission's consent
- to get advice or a surveyor's report
- to advertise the lease to try to get the best price
- to include statements and certificates in the lease documentation

Consider using your legal adviser or solicitor to draw up the lease paperwork as this can be a tricky legal area; but you won't need to come to the commission.

See:

[Section 4 Example 1 - Lease to a beneficiary for less than best price](#)

2. Selling or leasing to another charity for less than best price

Where you are disposing of your charity land to another charity for less than best price and

- you are carrying out the purposes of your charity

or

- your charity has the power through its trusts to dispose of property to another charity

then you don't need

- the commission's consent
- a surveyor's report
- to advertise to try to get the best price

However:

- you do need to include certain statements in the documentation for the sale, lease or transfer - see section 3 What statements do we need to include in the documentation for a sale, lease or transfer of land to another charity?

and

- the receiving charity must not have purposes narrower than your charity's or, where their purposes are wider ranging than your charity, the land must be used only for purposes similar or the same as those of your charity

See:

[Section 5 Example 2 - Sale of land to another charity with same purposes and also Example 3 - Sale of land to another charity with different purposes.](#)

3. What statements do we need to include in the documentation for a sale, lease or transfer of land to another charity?

In this situation you need to include statements that say:

- the disposal of the land falls within section 117(3)(c) of the Charities Act 2011 - this states that such a disposal is exempt from the requirements usually needed for a disposal of charity land
- the land sold, leased or transferred will be held by or in trust for a charity

and

- either:
 - the receiving charity is an exempt charity - this would mean that any disposal of that land in the future by the exempt charity would not have to comply with the requirements about surveyors, advertising, etc
 - or, if it is not, then
 - the restrictions about getting a survey, advertising etc will apply if the land is disposed of in the future unless the future disposal is excluded or exempt from these restrictions for some other reason

See:

[Selling land without needing Charity Commission consent or Leasing land without needing Charity Commission consent Example1](#)

4. Example 1 - Lease to a beneficiary for less than best price

4.1 Background

A housing trust was set up to provide social housing for less than market value in the centre of a large town. In order to fulfil its purposes, the charity has a block of flats that it leases to single people or families who would otherwise be homeless.

The trustees have their own criteria for how they allocate the housing and they have the lease agreements drawn up by their solicitor to make sure all the legal loose ends are tied up.

4.2 Does the Trust need consent or to fulfil any special requirements when leasing to these homeless people?

No. Each time the Trust lets out a flat there is no need to get an estate agent or surveyor's report or advertise the lease for the flat. There is no need to come to the Charity Commission for consent either. This is because the homeless people housed by the Trust are its beneficiaries. By leasing to such people at less than market value, the Trust is carrying out its charitable purposes.

See:

[Section G4 of Sales, lease, transfers or mortgages: what trustees need to know about disposing of charity land \(CC28\)](#)

5. Example 2 - Sale of land to another charity with same or similar purposes

5.1 Background

A local charity exists to preserve as an educational resource, for the benefit of people in the region and nationally, a historically and architecturally valuable manor house and its grounds.

A deceased relative of the family whose ancestral home was the manor house has left the charity, to do with as the trustees think fit, a plot of land that had connections with the family. It's a beauty spot on the coast in the south west of England with a holiday cottage the family used to visit. The trustees aren't sure what to do with the new land. It's very beautiful and has its own historical, natural and educational merits - but it is 350 miles away.

The trustees have decided they can't maintain the land and think it would be better if someone else could take it on. The trustees have checked in their governing document and find they have the power to dispose of land to another charity. They have offered to sell it to a national charity that specialises in such pieces of land and has the resources to prepare materials and administer educational visits.

5.2 Does the local charity need consent or to fulfil any special requirements when selling to the national charity?

No they do not need Charity Commission consent, although there are some administrative details they must deal with.

- Because the objects of the national charity are very similar to the charity selling the land, the trustees of the local charity don't need to get a surveyor's report or advertise the property. They can also sell for less than the full market value because they are selling to another charity with similar objects.
- The documentation for the sale must include statements that say that:
 - the sale falls under 117(3)(c) of the Charities Act 2011
 - the land would be held by or in trust for a charity
 - the full requirements needed for any future sale would have to be met unless that later sale was excluded or exempt from the requirements - if any future sale were to be made to an exempt charity, for example

See:

[Section G3 of Sales, lease, transfers or mortgages: what trustees need to know about disposing of charity land \(CC28\)](#)

6. Example 3 - Sale of land to another charity with different purposes

6.1 Background

A medical trust had some laboratories set in quite large grounds just on the edge of a large town. The trustees decided to sell off some of the land. They wanted to sell to another charity and they had in mind an arts centre charity who wanted some space for an outdoor theatre.

6.2 Did the medical trust need consent or to fulfil any special requirements when selling to the other charity?

They did not need Charity Commission consent but they did need to fulfil certain requirements before entering the agreement to sell.

As the sale was not to a charity with the same purposes, the medical trust had to comply with the requirements needed for any sale of charity land. They got a surveyor's report, advertised the sale and considered all the offers they received before selling for the best price to the arts charity.

The documentation had to include:

- the statement that the land was held by the charity or in trust for the charity and that the medical trust had complied with all the requirements before selling
- the certificate to say the medical trust had the power to sell the land

See:

[Charity land and property](#)

Because the sale was to another charity, they also had to include a statement that said:

- the land would be held by or in trust by a charity (the arts centre)
- that the requirements for any future sale of the land would also have to be met by the arts centre unless they were to sell to an exempt charity or the sale would be excluded or exempt for any other reason

See:

[Section G3 of Sales, lease, transfers or mortgages: what trustees need to know about disposing of charity land \(CC28\)](#)