



Andrew Tompson MRICS

# Charities Act Valuations – Getting Best Value



## OBJECTIVES

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**My name is Andrew Tompson and I am Partner and Head of Valuation at Berrys Chartered Surveyors.**

*My professional experience is primarily in valuation and sale of residential properties. Berrys is well established in the legacy sector as a provider of advice on charity property and, in particular, legacy asset disposals. In this presentation I aim to provide you with an overview of the statutory and other relevant guidance to provision of reports for disposals of charity property assets and advice with regard to the way in which to get the best value from such reports. The Charities Act 2022 has now received assent and there are some changes that will come into force in early 2023 and I will highlight those.*

*All of the For Legal's titles come with accompanying documents and my notes and presentations are available to download once you click 'play'. You will also receive a CPD certificate at the end of the session.*

When charities look to dispose of a property asset they are required to follow the procedure set out in the charities act. At present the requirement is that the advice is usually taken from a chartered surveyor and that the advice follows the format set out in the 1992 Regulations.

In this presentation I will focus on disposal of property assets that become charity assets as a consequence of a gift within a will either as a direct gift or as a consequence of appropriation to avoid capital gains tax liability on the estate.

I will set out some practical advice from the surveyor's perspective and discuss some issues which regularly arise and our usual approach to dealing with them.

I will also review the changes set out in the charities act 2022 and the effect this will have on the process.

## **Current Guidance and Regulations**

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### **When is a report required?**

When a disposal of an asset occurs; this may arise unexpectedly in the case of legacy properties when appropriation occurs.

### **Charities Act 2011**

Part seven, sections 117 to 123

### **Qualified Surveyors Report Regulations 1992**

Requirement to take proper advice.

- Description of the property
- lease is and Tenancies
- easements and covenants
- repairs
- alterations and repairs
- Method of sale and marketing.
- VAT
- Valuation

### **RICS Red Book**

The valuer needs to be a Chartered Surveyor (MRICS or FRICS) but also to be a member of the registered valuer scheme to confirm that they regularly undertake formal valuation work.

The guidance is set out in the UK supplement to the Red Book at VPGA 8 “Valuations for Charities”.

### **Getting Best Value from the Report**

Clarity of instructions and provision of background information is critical to getting a report right first time and to ensure the report addresses all of the issues facing the estate and to be considered in the disposal.

### **Liaising with Legacy Management**

Making contact with charitable beneficiaries is recommended at an early stage in order that they are aware of the gift and also to make best use of their experience. This is particularly important for more complicated cases.

Where there are multiple beneficiaries usually one will act as the Lead and coordinate communication between the beneficiaries. This can save time for the estates solicitor and executor.

### **Instructing a Surveyor**

To get the best report the surveyor needs to be fully briefed; the more knowledge they have of the circumstances of the case the more likely it is that the advice will be immediately useful and not require further discussion. In particular the surveyor should be provided with;

- Full address and access arrangements
- the name of the donor as this is usually the reference for charities
- details of any marketing that has taken place to date
- confirmation of any restrictions on the use of the building that are known
- details of any parties expressing an interest in all or part of the property
- an understanding of the pressures on the estate and the charitable beneficiaries due to any disputes as it may affect the advice with regard to means of disposal and preparatory works.

### **Frequent areas for discussion/advice**

- > **Tenancies**
- > **Offers** for all or part
- > Mode of **sale**
- > **Planning** opportunities
- > **Overage** and **clawback**

### **Further support**

You should agree with the surveyor that they will provide further assistance or updates to their reports during the marketing period. This should speed up the process and minimise additional costs.

### **The Future – Charities Act 2022**

The changes to the process are set out in Part Two of the new act.

### **Key Changes**

- > Designated advisor
- > Sole beneficiaries
- > Content of the Report
- > Timing?

### **Links**

Law commission commentary on 2022 Act: [Charities \(parliament.uk\)](#)

Charities Act 2022 –Part 2, Charity Land: [Charities Act 2022 \(legislation.gov.uk\)](#)

Implementation Plan: [Charities Act 2022: implementation plan – GOV.UK \(www.gov.uk\)](#)

[Law Commission report: Law Commission No. 375 Technical Issues in Charity Law](#)

### **RICS– Red Book**

UK (includes charities guidance at VPGA 8, page 70) [Red Book UK National Supplement \(rics.org\)](#)

Global; [Red Book Global \(rics.org\)](#)

### **Charities Act 2011 and Surveyors' report regulations**

Regulations (QSR) [The Charities \(Qualified Surveyors' Reports\) Regulations 1992 \(legislation.gov.uk\)](#)

Charities Act 2011 [Charities Act 2011 \(legislation.gov.uk\)](#)

[Charity commission guidance on disposals \(CC28\): CC28 Sales leases transfers or mortgages: what trustees need to know about disposing of charity land \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)