

# **The Church Buildings Council's Policy on the Sale of Treasures from Churches**

## **Introduction**

Rule 15 of the Faculty Jurisdiction Rules 2000, requires consultation with the Church Buildings Council on the disposal of articles of particular historic merit.

The final decisions over disposal are of course in the hands of the Chancellors but the Church Buildings Council thought it would be helpful to Chancellors, DACs and parishes to set out its policy on the subject and the thinking behind it.

**The policy of the Church Buildings Council is that church treasures belong in churches, and should only be removed in the most exceptional circumstances.** Churchwardens are temporary custodians of their buildings, they do not own them, and therefore they have a duty of care not just for the current generation but for future generations. The past for church buildings is also their future – they tell the ongoing story of the church and of those who have worshipped there and cared for it, often for centuries, as a living witness to the glory of God in every corner of the land.

In difficult economic times we understand the temptation for churches to sell off valuable works of art, but if such sales are given validity through success in even one or two instances, the parish churches of England could quickly be stripped of many of the treasures that make them unique. Later generations would surely regret such losses, in much the same way as we now regret the destruction of countless medieval sculptures during the Reformation or the shattering of tens of thousands of stained-glass windows during the Commonwealth. But by then it would be too late.

However, we are also aware of our duty under the DPMM “to promote the care and conservation of churches and greater activity relating to churches both within the Church of England and more widely among the general public”, and that for some parishes being advised to preserve their treasures rather than dispose of them is not always a convenient or welcome message. The Church Buildings Council understands this and the purpose of this document is to address relevant issues of concern in the implementation of our policy and to offer parishes guidance and practical help in celebrating and allowing others to appreciate their treasures.

## **1. Theological underpinning of this policy**

As Christians we believe in God the creator, who makes and sustains the universe through Christ by the power of the Spirit. Christianity is incarnational. God in Christ takes material form. Made in the image of God, humanity is also by definition creative. The experience of the Church Buildings Council leads us to believe that the material and the spiritual, within that creativity, cannot be separated. When such creativity is expressed in the forming of a sacred place, or the creation of an object to express faith and worship, then more things are at play than the material value of the object or its artistic merit. Such places and objects become ‘sacramental’, associated with holiness, and in their way both preserve the memory of encounter with God and

facilitate such encounters in the future. These places and objects do not deny the possibility of encountering the divine in any place, at any time and in any way, but rather focus those possibilities in places and through things which have been so in the past – where ‘prayer has been valid’.

The Christian Church, and the traditions from which it sprang, has an ambiguous relationship with the material. Our buildings, and the material things which sustain and inform liturgy, prayer, teaching and reflection are encapsulations of both doctrine and creativity, evocations of the eternal, and yet if our gaze rests on them alone we fail to ‘esp[er] heaven’. In considering how to approach the objects which have been part of the past life of a church, such tensions need to be addressed. God does not dwell in houses made with human hands, as Stephen reminded the Council in Acts 7. But his corrective was to those who rejected the Messiah, and the secularisation of the Temple, just as Jesus overturned tables because the encounter between God and humanity had been turned into a business transaction. Objects should not be idolised, but can be expressions of creativity and faith from the past which still have a story to tell and a faith to express. Objects used especially in worship, as containers for holiness, themselves gain sacramental significance. Whilst it may be difficult simply to throw away a worn out prayer book, for example, surely this has to be done and each generation has to address whether it should be the one to discard such objects. The material objects of our churches are held in common not only with our predecessors but also our successors.

The theological tension is played out in each generation and in each place. The faith of the past will be destructive if it constrains and does not enable the faith of the future. Places and objects are conveyors of identity, memory and doctrine. They cannot be idolised, but their role in communicating faith cannot be downplayed.

## **2. Ownership**

**Church treasures are not an asset for the PCC. All moveable goods of the church belong to the parishioners at large, the property in the goods being vested in the churchwardens as representative parishioners (see Canon E1.5).**

This means that PCCs need to be extremely cautious about assuming treasure can be used as a fundraising asset to further the current priorities of the congregation. These are part of the history not just of the church building but of the community it serves.

The Archbishop of Canterbury, Dr Rowan Williams said in the Sharrington Lecture delivered in 2010 that the church *‘speaks of the past, it speaks of the cumulative heritage of art and imagery and skill. It speaks of people’s engagement with both nature and the materials that it uses – the wonderful presence in so many churches across our country of local material built into and sanctified by a church building. It speaks too of an engagement with faith, it speaks of the images of an integrated, more healed, life that emerges from that engagement with the mystery of the world around. It speaks of the past; all of that legacy of skill and imagination, born of the experience of local wrestling and engagement with the mysteriousness and the uncontrollability of the environment is held, physically, in this building’*. Second *‘it speaks of death. It speaks of the fact that human beings come and go in this place’*. Thirdly it speaks *‘of*

*solidarity, of belonging, the fact that the community of any one place is not just the people who happened to be there at any one moment. Somehow, who we are and what we are is bound up with far more than we can see, understand or even imagine. History, death, belonging: great, sombre, significant facts about humanity; and here they are, encoded in this building and what lies around it.'*

Dr Williams was talking particularly about rural churches, which are the repositories of many of our historic treasures, but this crucial point about engagement with the community applies everywhere.

### **3. Charitable status**

**As a result of some consistory court judgments, the view is gaining ground that PCCs are under an obligation to maximise their assets. That view is misconceived.** As the Legal Advisory Commission explained in its opinion on the enforcement of chancel repair liability, the members of PCCs are subject to a number of fiduciary duties. 'One of the most basic of those duties is to act in the best interests of the PCC. That duty has a number of consequences. One is that they are under a duty to protect and preserve the PCC's assets.'

Moreover confusion has arisen about the distinction between income and heritage assets. The goods of a church are not normally vested in the PCC at all but are vested in the churchwardens. It is the churchwardens, and not the PCC, who sell goods pursuant to a faculty authorising sale (even though the funds realised from the sale will become the property of the PCC). Unlike the members of a PCC, the churchwardens are not 'charity trustees', not being members of a charitable corporation or trustees (in the strict sense) of property held for charitable purposes. They probably should, nevertheless, be considered to be subject to certain fiduciary duties: the goods of the church are vested in the churchwardens as representatives of the parishioners generally, the goods of a church being the property of the parishioners – whose consent is necessary if they are to be sold. Thus as a matter of general principle, the churchwardens should act in the best interests of the parishioners when selling church goods.

The Charity Commission expresses clear views about the duties and responsibilities of Trustees in the management of the assets of a charity. Trustees are required, for example, to take professional advice over investments and, if they fail to do so, can be found personally liable for money that is lost through unwise use of funds. If the charity owns property, the purpose of which is to provide income for pursuing its registered objects, the rents or leases must be made at the full commercial rate appropriate to that property; if sub-economic rates are charged, the Trustees are in effect depriving the charity of income and can again be held personally liable. The Trustees may from time to time have to weigh up the advantages to their charity either of continuing to receive an annual income from a property or financial investment, or of selling that investment, whether for a more profitable re-investment or (if their Trust Deed permits) to spend the capital in some other way that will be beneficial to the cause. In all these areas Trustees have an obligation to act and bear potential personal liability for the decisions that they take.

However, management of the assets that provide a charity with its income should not be confused with Trustees' duties of care in terms of what we might call **'heritage assets' which, in cases like churches and their contents, themselves constitute the charitable object.**

**Nothing in the Charity Commission's policy states that, because that an item has financial value the trustees have a duty to sell it in order to realise its potential value.**

#### **4. Financial Necessity**

Parishes often quote financial necessity as a reason for the sale of artefacts. The Court of Arches judgement in re St Peter's Draycott [2009] Fam 93 considered that when the jurisdiction is invoked on the grounds of a financial emergency this means "an immediate pressing need to carry out urgent critical work for which funds are not, or cannot be made, available" and is to be distinguished from "financial need".

**As most parishes are in a continuous state of financial need, there would be an unacceptable threat to the ecclesiastical heritage if mere financial need were to be held to justify disposal.**

#### **5. Insurance**

The cost of insurance is always a concern for parishes but it is important to recognise there is no legal requirement for insurance of 'treasures' to cover the full market value, and indeed the General Synod has resolved that such items be insured only for the cost of a modern replacement. Any loss would therefore be of a treasured possession, not one measured in financial terms.

This advice is also that of the Legal Advisory Commission.

#### **6. Security**

Security issues are often cited when disposal is discussed. Although there is always a possibility that a determined thief may succeed, simple security measures can be put in place by parishes which will protect their treasures to a very large extent.

The police and the insurance companies advise that churches are kept open during the day, but closed in the hours of darkness. Small valuable items should be locked in the vestry and within the vestry in a safe. Excellent safes are available on the market for less than £400. A record including hallmarks and photographs should be kept away from the church at the parsonage or the churchwarden's house. Further detailed advice is available from the Ecclesiastical website.

The early 14<sup>th</sup> century Thornham Parva retable is of international significance. In 2003, following a programme of conservation at the Hamilton Kerr Institute in Cambridge, it was returned to St Mary's church and housed in a purpose-made glazed frame. The temperature and humidity controlled case, designed by the Whitworth Co-Partnership in collaboration with Bloomfield Installations and Colebrooke Consulting,

has reinforced glass, is alarmed and linked to the police, fire service and key holders by a monitoring company. The temperature and humidity within the case are remotely checked by Colebrooke Consulting to ensure a constant environment for the piece. Martin Kay, churchwarden says “We feel that it is vital that such an important historical object should be displayed for people to see and appreciate. We were and are determined to retain it here for all to enjoy”.

## **7. Relationship with Auction Houses**

Parishes need to be aware that a pre sale estimate is no guarantee of actual price achieved at auction and is often set at a high level to encourage a sale. Prices achieved at auction are driven by fashion and, as explained below, currently there is little market for ecclesiastical silver for example.

**There is a real danger that when art or artefacts from churches go onto the open market they will be bought by foreign buyers and lost to this country for good.**

In 1989 some important Burne Jones paintings were bought by the Lloyd Webber collection but were sold subsequently to the Carnegie Museum in the United States.

The Wootton St Lawrence armet (see 13 below) was sold at auction to an anonymous foreign buyer.

## **8. Silver**

The change of policy on storage of items of value by banks and the fact that cathedral treasuries are not available in all dioceses has led some parishes to question whether they should sell their silver.

In the Church Buildings Council’s view this is short sighted for all the reasons set out in this paper. The silver which is being bequeathed to the church at various points in its history, whether it has a current liturgical use or not belongs to past, present and future generations and we would encourage parishes to explore all options for keeping it in the church.

During 2001, the PCC of St Mary’s, Woodbridge embarked on re-ordering the west end of the nave to create an organ gallery and refreshment point. About the same time, Barclays Bank informed the PCC that it could no longer hold a chest free of charge in its safe. The opportunity was taken to include within the re-ordering the formation of a niche in the tower wall to display the silverware contents of the chest. The silverware, protected by an alarm, hidden CCTV camera and bullet proof glass is available for visitors to admire. “The PCC takes the view that while these objects may be in the care of the PCC, they belong to everybody, should be used, on public view and not be locked away out of sight” explains the Rector, the Revd Canon Kevan McCormack.

The experts we have consulted indicate that the commercial value of church silver on the open market is low at the moment and will realise relatively small sums. There is

also a very real danger that the value of the weight of the silver will be greater than the artefact and that it will be melted down and the object lost forever.

### **9. Historic Link with the Church**

The lack of a long standing historic link with a church is sometimes cited as a reason for disposal. The Church Buildings Council takes the view that this argument is to be treated with extreme caution. An object given to the church is not necessarily any less the “gift of a pious donor” because it was made 10 years ago rather than 100 years ago. The interiors of churches and their ornaments have not remained static since they were first consecrated, and their history and the history of the communities they serve is often told through alterations and accumulations over the years.

### **10. Secular Origins**

Parishes wishing to dispose of their treasures sometimes use the argument that the item in question was secular in origin. It has often been the case that historic church plate has a secular origin and a later liturgical use, but this does not diminish its importance and makes the distinction a difficult one to apply in practice. Given the position of the Church of England as the established church, and its close influence often over centuries with national and local life, churches have often ended up containing items which may have no immediate liturgical use but nevertheless form an important part of their treasures. Royal Coat of Arms are an obvious example.

### **11. Redundancy**

**Parishes, in their submissions to sell items, often declare that objects are redundant, as a way of saying that this generation does not care for them and can find no place for them at the moment.**

In 2010 the PCC of St Ebbe's in Oxford sold two oak coffers because no one in the parish took any particular interest in them and no one raised an objection when they were moved and stored away. At a subsequent Consistory Court Hearing the churchwardens told the court that from a practical point of view they didn't wish for the chests to be returned to the church and no one had expressed any particular attachment to them. This view was refuted by the Chancellor who said it was of the utmost importance that heritage was conserved whether or not it was perceived to be of 'practical use', and whether or not any person had a 'particular attachment' to it.

Parishes should also recognise that treasures for which they have no current use may offer imaginative mission opportunities to visitors to the church.

St Mary's Battersea has a copy of the first Authorised Edition of the King James Bible. It was a relatively recent gift to the parish and was stored in the vestry without many people knowing of its existence. The parish wished to dispose of it, partly to raise funds, and after being told that its conservation for display would be 'very expensive'.

The proposal from a leading auction house was that in order to achieve the maximum return, the pages should be removed one by one and sold individually. Following the appointment of a new vicar the parish worked with the Church Buildings Council to find a way to keep the Bible at St Mary's recognising its interest alongside their other historic furnishings. Conserving the Bible is costing less than £1,000, and is eligible for grant aid. In future the Bible will be placed in a secure display case in the church for use by the congregation on special occasions and displayed for the interest and education of all their visitors. No longer redundant it is offering new opportunities for engagement with the community.

Treasures also offer unique opportunities to **tell a story** as well as to enhance the beauty of the building when well displayed.

St Andrew's church, Burnham-on-Sea inherited two magnificent Grinling Gibbons carved angels in extraordinary circumstances.

Originally commissioned in 1685 by James II for the chapel at Whitehall Palace, they adorned Sir Christopher Wren's altarpiece. The altar was short-lived and, during the Glorious Revolution, it was dismantled and scattered with the two angels being taken to Hampton Court and kept in storage. After the Whitehall Palace fire in 1691 they found their way to Westminster Abbey and were incorporated in a new altar. However, the Coronation of George IV required a new altarpiece and, the majority of Wren's original work was acquired by Walter King, the then Bishop of Rochester. King was also a Canon of Westminster and Vicar of Burnham and so the carved angels were relocated to the church. The angels were in 2008 kept in the tower amongst many other storage items.

The parish then embarked on a project to redisplay the figures. The Church Buildings Council supported the parish by providing expert technical advice and grant-aid. These extraordinary altar sculptures were restored to the congregation and the church's many visitors, gloriously enhancing the beauty of the building and redundant no longer.

## 12. Grants

**The Church Buildings Council runs several Conservation Grants programmes to support parishes in the conservation of historic furnishings and artworks in churches.** Most types of furnishings found in church buildings are eligible for consideration and grants awarded include: organs, bells, clocks, textiles, timberwork, monuments, metalwork and plate, historic books and manuscripts, wall paintings, paintings and stained glass.

Our grants are assessed by conservation committees which bring together over 50 specialists from national organisations including the Victoria & Albert Museum, University of Cambridge and English Heritage. This unique source of expertise ensures that conservation projects in churches are carried out to the highest standards.

## 13. Relationship with Museums

The Church Buildings Council has a good working relationship with the main national museums, many of which are represented on our Conservation Committees. At a recent International Symposium on the conservation of significant works of art in churches convened by the Church Buildings Council at Westminster Abbey, representatives of museums argued strongly that ecclesiastical objects lost their power when exhibited out of context in museums. Evidence from Norway was that the trend to move art and artefacts from churches into museums was now being reversed. However, **there are still some instances where loan arrangements are the best solution both for the church, the museum in question and the nation as a whole.**

The Wootton St Lawrence armet illustrates an extremely successful cooperation between the church authorities and the National Museum of Arms and Armour, which led to over twenty helmets from funerary monuments in church buildings of exceptional national importance being saved from commercial and criminal depredation. The museum would not have sufficient funds to purchase every item in its collection, but it provides expert conservation, gives the parish a replica to display in situ and makes the collection available in one place to the wider public in a historical context.

Nevertheless, there is a perception that some museums are increasingly reluctant to act as repositories for treasures on loan from churches. Every museum has its own Board and its own policy so this generalisation needs to be treated with caution, but there is evidence that many museums no longer want to keep items which have been loaned simply to avoid insurance and storage costs and which are not of sufficient quality to be on permanent display.

**So in exceptional circumstances sale to museums may be the best way forward, and greatly preferable to sale on the open market because a museum may be best placed to conserve the treasure and display it in a way that will give wider public access to it and helps to minimise the possibility of subsequent resale abroad.**

In considering applications for sale to a museum the Church Buildings Council will always be mindful of the conservation needs of the object in question and the ability of the museum to conserve it for future generations and display it safely for the public at large in ways which would not be possible in a parish church. Parishes may need to distinguish between objects which are of sufficient national significance to be sought by a major museum and local museums which may themselves be facing funding challenges.

In 2011 the Church Buildings Council supported the proposal of St Mary Selling to sell two naval flags to the National Maritime Museum at Greenwich on the grounds that the flags were too large to be properly displayed in the church, the fabric was very vulnerable and there was a conservation imperative for them to be moved to be saved.

However, the Church Buildings Council feels strongly that the story of the objects connection with the parish should be told clearly both in the church and in the museum and will always make representations to the Chancellor to make this a condition of sale to a museum. In the Selling case the parish church was determined

that the story of the flags' connection to the church would not be lost to those who visit or worship there.

The Lacock cup, a pre Reformation drinking vessel that had been owned by the parish by St Cyriac, Lacock was loaned to the British Museum for more than forty years. The historically rare nature of a cup made for secular use that pre-dates the Reformation meant that it had a very high financial value presenting unique security issues. The Council was concerned that this uniquely rare object should not entirely sever its connection with the parish which had used it as a chalice for centuries.

#### **14. Anonymous Donors**

This is sometimes quoted as a reason for disposal on the grounds that because it is not known who the donor was, in some way the object does not belong to the church. Whilst historical links with named donors, particularly where they were notable figures nationally or locally, do add considerably to the story that is associated with an item in the church, there is no logical case for the argument that the gift of a donor who chose to remain anonymous carries any less heritage value.

#### **15. Advice**

Parishes considering disposal of any treasures should in the first instance contact their DAC, who will in turn refer to the Church Buildings Council should they judge it necessary.

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On behalf of the Church Buildings Council