**PRESBYTERIAN CHURCH IN IRELAND**

**Licensing the Use, by bodies other than the Presbyterian Church in Ireland,**

**of Church Halls and Other Properties used for Direct Mission or Ministry Purposes**

**HELPFUL QUESTIONS & ANSWERS**

This document has been drawn up by the Clerk of Assembly & the General Assembly Solicitor to assist Kirk Sessions in understanding the background to the General Assembly’s decision to draw up a common policy for licensing the use, by bodies other than the Presbyterian Church in Ireland (PCI), of church halls and other properties used for direct mission or ministry purposes.

1. **Generally speaking, how does a congregation protect its legal rights when it permits outside groups to use its premises?**

The method to make premises available to others is by a Licence, in which the congregation as Licensor permits a body or person, the Licensee, to use the premises. The putting in place of an appropriate written License Agreement:

* legally protects the congregation from inadvertently permitting an outside body or person to establish the automatic (or even in some cases semi-permanent) right to use Church owned premises;
* legally permits a congregation to specify activities which may not take place on its premises;
* legally enables a congregation to refuse to grant a license for the use of its premises to groups in circumstances where such licensing would be in conflict with the Christian ethos and the doctrine and testimony of PCI.

1. **What kind of activities can be specified as not being permissible when an outside group is using a congregation’s premises as a Licensee?**

* The raising of money by ballot, raffle, lottery, or any similar activity;
* The sale and /or consumption of alcoholic beverages;
* The sale and/or use of any illegal or mind altering substance;
* Any activity which involves any form of betting or gambling;
* Any inappropriate secular use on a Sunday;
* Any event or activity the purpose of which is advocating or promoting a course of action or belief system which is contrary to the doctrine and testimony of PCI.

1. **How can a congregation ensure that it maximises the legal protection it has in relation to prohibited activities when an outside group is using a congregation’s premises as a Licensee?**

The congregation should ensure that the ‘Prohibited Uses’(outlined in Q2) are clearly stated in the written Licence Agreement.

1. **What protection in law do congregations have when it comes to refusing the use of Church Halls to outside bodies? Is this different from businesses?**

Unlike a business, congregations of PCI have certain protection in legislation as they are primarily religious bodies, with the stated aim of the promotion of religion. Congregations have the right in law to ensure their ethos, doctrine and testimony are protected as these are central to their purpose of the promotion of, in the case of PCI, the Christian faith as outlined in PCI’s supreme and sub-ordinate standards. Congregations can therefore legally refuse the use of their Church Halls etc to any group whose purpose is advocating or promoting a course of action or belief system which is contrary to the doctrine and testimony of PCI.

It should be noted, as outlined in the Guidelines which have been issued, congregations should not advertise the availability of church premises to outside groups, to ensure that they have the fullest possible protection in legislation with regard to political opinion.

1. **How can a congregation ensure that it maximises the legal protection it has in relation to refusing to grant the use of its premises to groups in circumstances where such use would be in conflict with the Christian ethos and the doctrine and testimony of PCI?**

In order to seek to avail of the maximum protection afforded in legislation the congregation must have a legally compliant policy in which it claims such protection. In the case of a PCI congregation, this is known as an ‘*Equality policy for licensing the use, by bodies other than the Presbyterian Church in Ireland, of Church halls and other properties used for direct mission or ministry purposes’.*

Under law, such a policy must include in it a commitment ‘*to the promotion of equality of opportunity in licensing the use of church halls and other properties of Presbyterian congregations (“Church Premises”) by persons or bodies (“Potential Licensees”) other than the Congregation and other bodies of the Presbyterian Church in Ireland.’*

However the policy can also have within it a clause which declares that the congregation, as permitted in legislation, will be reserving *the right to exercise its discretion to refuse to license the use of Church Premises in circumstances where such licensing could be in conflict with the Christian ethos and the doctrine and testimony of Presbyterian Church in Ireland.*

The adoption by the Kirk Session of such a legally compliant policy, including the clause referred to, will maximise the legal protection a congregation has in relation to refusing to grant the use of its premises to groups in circumstances where such use would be in conflict with the Christian ethos and the doctrine and testimony of PCI.

The adoption of such a policy means that, if a decision is taken not to allow a group use of the premises on the grounds that it offends the policy, that such a group cannot argue that the decision was an *ad hoc* decision, or an arbitrary decision, or that the decision was based on any personal antipathy.

1. **Is an equality policy like this really necessary if a congregation only occasionally permits outside bodies to use its halls or if it doesn’t charge for such use?**

Yes. If outside bodies rarely use the congregation’s premises, it is still important that the congregation has a policy in place. This will maximise the congregation’s legal protection if it wishes to refuse to grant the use of its premises in response to a separate one-off request in circumstances where such use would be in conflict with the Christian ethos and the doctrine and testimony of PCI.

Likewise, even if the congregation does not charge for use of its premises by outside bodies, and indeed even if it refuses ‘donations’ for such use, it is still important that the congregation has a policy in place. This will maximise the congregation’s legal protection if it wishes to refuse to grant the ‘free use’ of its premises in response to a request in circumstances where such use would be in conflict with the Christian ethos and the doctrine and testimony of PCI.

The reasons for this are the same reasons as set out in Answer 5 above.

1. **Why are Kirk Sessions being instructed by the General Council to adopt the ‘*Equality policy for licensing the use, by bodies other than the Presbyterian Church in Ireland, of Church halls and other properties used for direct mission or ministry purposes’* by 31st January 2017?**

When discussed at the General Assembly in June 2016, the Assembly decided that this was such a vital and pressing matter that it should not wait until the next General Assembly, in 2017, to be implemented. Therefore specific authority was granted to the General Council to take all steps necessary to consider and fully implement the final recommendations of the specialist group dealing with this matter (see 2016 General Assembly Minutes, page 48, resolution 30).

The strong recommendation of that specialist group was, that on the basis of clear legal advice, the protection of every Presbyterian congregation in Northern Ireland was maximised by the adoption of the same policy by all congregations. The General Council (made up primarily of two representatives from each Presbytery) unanimously agreed, with General Assembly power, that all Kirk Sessions should adopt the same policy and follow the same guidelines regarding its implementation.

1. **Is the adoption of such a policy a sign that PCI is simply accepting and going along with the prevailing ‘secular spirit of the age’ ?**

No. The reverse is in fact true. This policy is to protect congregations from having to make their premises available in circumstances that could be in conflict with the Christian ethos and the doctrine and testimony of Presbyterian Church in Ireland. Such protection is there in law and is maximised by the ‘claiming of that protection’ in the form of the adoption of the policy.

1. **Finally, is the adoption of such a policy implying that a Kirk Session agrees with the stance of the Equality Commission and the Courts in relation to certain matters in the sphere of business and commerce?**

No. All statements included in the ‘*Equality policy for licensing the use, by bodies other than the Presbyterian Church in Ireland, of Church halls and other properties used for direct mission or ministry purposes’* refer only to that policy and that context. No statement in the policy implies that PCI, or any of its congregations, agree with the position of the Equality Commission and the decision of the Courts in relation to businesses owned by Christians.

17th November 2016