SALE OF PROPERTY - LETTER TO GUIDES

I am writing in response to your enquiry about selling the Guide Headquarters/Hut/Hall at [].

1. Considerations Before Deciding to Sell

It needs only a few moments' reflection on the way in which property values have increased over the years to realise how difficult it could be for the Guides of future years to replace the freehold you are now considering selling.

Any investment which could be made with the sale proceeds would not necessarily match the appreciation in value of property in the meantime. I am sure that your guide Committee have in mind that it is not only the Guides of today but also those of the future whose interests must be considered, and will take this carefully into account in coming to a decision on whether or not to sell the freehold you have now.

2. Estate Agents

Should you decide to sell, the first step is for you to instruct a reputable local property agent to represent the Guides in the sale, and to advise on the asking price and whether the sale should take place by private treaty or at auction. If you do not already have a suitable contact, a personal recommendation is often the best guide (and this also applies to the solicitor mentioned below).

Property agents usually charge a percentage of the sale price as a commission on sale, and this should be agreed in advance. You should confirm with the agent at the outset that the commission will include any fee for the preparation of the Qualified Surveyor's Report (see below). The commission on sale, and any separate fee for the report, will be the responsibility of your unit, but can be paid out of the proceeds of sale.

3. Qualified Surveyor's Report

A formal "Qualified Surveyor's Report" complying with the requirements of the Charities Act 2011 has to be obtained from a chartered surveyor acting exclusively for your unit. This is to confirm that the sale is on the best terms that can be reasonably obtained for your unit. The chartered surveyor must also advise how widely the property has to be marketed.

There is generally no reason why the report should not be obtained from the property agents you have instructed to sell the property, but the Trust Corporation may have to ask for a report from an independent chartered surveyor if it feels that there is a risk of conflict of interest.

There are special requirements both for the surveyor's qualifications, and for the contents of his report. Most firms of property agents include qualified surveyors on their staff who can prepare the report and will be aware of the relevant requirements of the Charities Act. I can supply the necessary details to the surveyor if there are any difficulties.

It will not usually be necessary for approval for the sale to be sought from the Charity Commission unless the intending purchaser has a family or business connection with any adult leader or committee member involved with your unit or area.

The Qualified Surveyor's Report should be read by all the voting members of your Committee (as its charity trustees) before the Committee makes or approves a final decision to accept an offer for the property.

4. Solicitors

The Trust Corporation has only limited facilities, and cannot handle purchase or sale transactions involving freehold property. It will be necessary for you to instruct a local solicitor specialising in property work to handle the conveyancing formalities on the sale.

You may already know of a reputable local firm which handles property work, or can obtain a recommendation from Guiding connections locally.

The solicitor will generally quote a fixed fee for property work, assuming the sale does not encounter any unexpected obstacles and there are no abortive transactions. It is good practice to agree the fee in advance.

5. Title Deeds

The title deeds/registered title to the [] Headquarters is/are in the name of the Trust Corporation and are held by our external solicitors, Bates Wells Braithwaite. Before any sale, we will need to check them and confirm they contain nothing which would restrict or otherwise affect your ability to sell the Headquarters.

Bates Wells Braithwaite will send the title deeds to your solicitor when you give me his name and address, and will be able to provide him with background information which will simplify the procedure so far as he is concerned.

6. The Legal Procedures

The Trust Corporation acts on the sale in accordance with the Guide Association 1938 Trust Deed at the direction of your Committee, which has sole responsibility for deciding whether the property is to be sold, and if the price achieved is acceptable.

The conveyancing documents will be signed here on behalf of the Trust Corporation in due course. The Charities Act 2011 will require two members of the your Committee to countersign the Land Registry transfer to confirm that the Charities Act procedures have been complied with.

I will provide a form of resolution to be passed by your Committee once a purchaser has been identified and the offer accepted.

7. The Sale Proceeds

After the sale is completed and the expenses of sale have been paid, for audit purposes and to comply with the 1938 Trust Deed what remains of the proceeds of sale will be sent to the Trust Corporation, which will deal with them at the direction of your unit. For charity account purposes, the sale proceeds should be recorded by you and treated as general funds, with no restrictions.

If those proceeds are to be invested for the benefit of your unit, the Trust Corporation offers a cash deposit fund and an investment service through its stockbrokers, CCLA. To minimise administrative complications and expense, and to assist compliance with the charity trustees' statutory duty of care under the Trustee Act 2000, the investment service is limited to investment in the CCLA COIF Investment Fund. Further information can be supplied on request. Capital money can be withdrawn from the investment at any time on the direction of the unit, whether to fund specific projects or for other reasons as your Committee decides.

I hope all this makes the process reasonably clear, and if you have any questions or concerns, please let me know.