



## Presbyterian Church of Australia in the State of New South Wales

*From the Office of the General Manager  
11 July, 2018*

### **USE OF CAPITAL FUNDS**

From time to time questions are asked on the appropriate use by congregations and committees of funds held on their behalf by the Trustees. These funds may be held for three different reasons; Specific Purpose, General Purpose or Investment Deposits only.

Specific Purpose capital and General Purpose Capital usually arise from the sale of property or receipt of bequests, they have trust implications at law. Investment Deposits are depositors' free funds and there are no capital use limitations.

There can be a legally binding obligation to maintain the capital in a particular fund. There is also a Trustee policy that is desirable to maintain capital within a fund, even if it is not for a legally binding specific purpose. This policy has resulted in the general practice over the years to retain the corpus of bequest monies as preserved capital unless there are strong reasons to the contrary. This reflects a need to be responsible Trustees.

The purposes for which funds can be drawn down and expended is usually clear where a Specific Purpose is defined (usually in the case of a Will). Use of income (interest) derived from the funds has the same purpose attaching to the original capital. Trustees have a duty to ensure the Capital Fund remains intact and that income from the capital is used according to the specific nature of the trust.

General Purpose capital refers to amounts held in trust which are originally derived from significant assets (usually a bequest or property sale). It does not refer to freely deposited funds. Funds deposited for the sole purpose of an investment return are not encumbered by the same trust obligations. These funds can be used at the sole discretion of the beneficial owners of such monies.

Nevertheless, there have been some requests for the release of funds held for General Purposes to be applied to recurrent week to week expenditure to pay for pastoral or ministry costs. In other words, can non-specific capital be used to contribute to the general running costs of a congregation or committee? The answer is usually "yes".

The practice of the Trustees has been to release income (interest) generated from capital held for General Purposes to pay for normal operating expenses. An allocation of a portion of income earned to maintain the original purchasing power of the capital (to cover inflation) may be a consideration over time.

A number of congregations are now reliant on investment income to augment the giving of members to fully fund their spending budgets. Depending on the amount of the original capital and the proportion of income being applied for this purpose it obviously means that eventually the value of the capital and thus the income will be devalued beyond any significant usefulness.

There are a few congregations which are operating at a deficit and wish to apply capital funds to make up the shortfall. In most cases there does not appear to be a reasonable expectation that income will be able to cover expenditure in the foreseeable future without a significant reduction in outgoings. There is usually a part-time or full-time pastor in the parish in these instances. If the capital funds were to be used in such a manner it can be expected that the funds of the congregation will eventually be fully depleted.

The policy stated by the General Assembly is that capital funds held for no Specific Purpose should be applied to expenditure of a capital nature and not be expended on the day-to-day running costs of a congregations which should be funded by the giving of its members (BB1978 Minute 61(6) – **“Confirm that as general rule capital funds should be applied towards work of a capital nature and not expended on maintenance or on operating costs”**). Capital funds are usually released in accordance with this policy for asset improvement or strategic capital projects (buildings and property) consistent with the development of local ministry. Trustees are able to vary this if strong reasons are available which are consistent with their obligations to act responsibly, prudently and fairly.

The argument has been advanced in the case of bequests left for General Purposes, that it may well have been the intention of the testator that the funds be applied to the operating costs of the congregation.

There may be some validity to this argument. However, those responsible at law (trustees) to supervise capital and to ensure that it is not inappropriately “lost” or deleted require some substantiation of the testator’s intention. In such circumstances it would not necessarily be irresponsible for Trustees to approve the utilising of the bequest capital over an extended period of years.

The issue to be considered is the desirability or wisdom of depleting the accumulated funds of a congregation to maintain ministry and pastoral support when the congregation is no longer financially viable.

Relevant considerations and tensions needing to be weighed wisely include:

- a) the rights of members who may have contributed to the funds still in hand, and the Church’s responsibility of care to its members, many of whom have been active in support over many years;
- b) the appropriate use of the funds of the Church, and funding for growth and church planting;
- c) the duty of the Trust to preserve and protect the assets of the Church.