

Guidelines Leaflet T08: Manse Trusts

This leaflet explains Manse Trusts. These apply to many residential properties used by Baptist churches. They are usually used as manses to provide accommodation for Ministers and their families.

This Guideline Leaflet is regularly reviewed and updated. To ensure that you are using the most up to date version, please download the leaflet from the BUGB website at www.baptist.org.uk/resources

The date on which the leaflet was last updated can be found on the download page.

T08: Manse Trusts

OWNING A MANSE

Many Baptist churches have a manse which is available as a home for their minister and the minister's family and as a base from which the minister will work. Even if the church does not have a minister – either because the church have a pastoral vacancy or because at present they are not able to support a minister – they may have a house or flat which they regard as the church manse.

If a church member is asked the question, 'Who owns the manse?' the answer will probably be that the church does. Although in many ways this is true there are legal implications of property ownership which need to be considered in a little more detail to give a full answer to the question.

TRUSTEES

Legally the ownership – what lawyers call the title – of the manse will almost always be in the name of Holding Trustees (often also called Property Trustees). The trustees may be a number of private individuals who are connected with the church or, more usually, be one of the Baptist Trust Corporations, such as the Baptist Union Corporation.

Even that is not the complete story. Although the Baptist Union Corporation may be the Holding Trustee and the formal legal ownership is in their name the day to day responsibility for looking after the property and for insurance will be with the local church. Within each church are a group who are the Charity Trustees. This is usually the deacons, minister and elders (if any), but often also known as a Leadership Team or Managing Trustees. So there are really two sets of trustees for each manse:

- The Holding Trustees (often the Baptist Union Corporation or one of the Baptist Trust Corporations) who are the legal owners of the property.
- The Charity Trustees (often known as the deacons, leadership team or Managing Trustees) who are appointed by the members to take responsibility for the church, particularly for legal and financial matters, including looking after any property.

It follows that there must be a clear understanding by the Holding Trustees and the Charity Trustees – and also by the church members – of the responsibilities each has and their relationships with each other. These responsibilities and relationships will usually be set out in a trust deed.

APPOINTING TRUSTEES

Before looking at the question of trust deeds themselves it may be helpful to highlight the advantages of appointing the Baptist Union Corporation, or where appropriate one of the other Trust Corporations, to be the trustees of church property rather than having private trustees:-

- A Trust Corporation is permanent so that the need and expense of periodically appointing new individual trustees is avoided.
- A Trust Corporation has experience and can support and protect the church in their relationship with neighbours or other third parties. The Baptist Union Corporation have built up considerable expertise in handling all sorts of property and trust matters.
- The possibility that an individual serving as a trustee may degenerate in character, or may adopt views contrary to those of the church and so create difficulties, is avoided. The Baptist Union Corporation will always seek to act in accordance with the wishes of the church members' meeting.
- The risk of property being lost to Baptists is reduced.
- Baptist Trust Corporations are answerable to the Baptist family.
- Loans from Baptist loan funds are often easier to obtain if a Baptist Trust Corporation are trustees.

An application form is available for churches who already own a manse for which there are private trustees and who wish to appoint the Baptist Union Corporation. The present private trustees must be asked whether they are willing to resign. If any of them prefer not to resign the Baptist Union Corporation are usually willing to be appointed joint trustees with them. This is on the understanding that no further private trustees will be appointed.

The same application form can be used by a church, who for the first time, are buying a manse for which they would like the Baptist Union Corporation to be trustees. The form can be found in our leaflet T03 *Appointing Property Trustees – Baptist Trust Corporations*.

TRUSTS

Trusts are special rules that explain how property should be used. Manse Trusts will usually indicate that the property is available for use by a minister of the church.

The church members who have given money towards the purchase price may hope that this is a long term investment. Adopting Trusts (special rules) will help to safeguard the property, ensuring that the church has the benefit of either the original property or a replacement property.

Trusts help ensure that decisions about the use of the manse, or any sale proceeds if it is sold, are made carefully. Decisions will normally need to be made by a Special Church Members' Meeting.

As the manse is the property of a charity (and all churches are charities) any sale needs to comply with the requirements of charity law and the Trusts.

For a more detailed explanation about trusts please refer to our leaflet T01 *Baptist Property Trusts – Beginnings and Patterns*.

TRUST DEEDS

Trusts for residential property owned by a church are normally less complicated than the trust arrangements for church buildings. There is usually greater flexibility in using any sale proceeds. Other arrangements are usually simpler and easier. Generally the proceeds of sale of a property held on church trusts can only be used on certain conditions.

Where a church has owned a manse for many years the property trusts will usually be set out in a document prepared at the time of the original purchase – perhaps in the nineteenth century.

Even where the church has since sold the original manse and purchased a replacement property out of the proceeds of sale – perhaps adding some more money of their own – the same trusts will apply to the new property, and to all subsequent properties. There is no need to declare new trusts each time; although the property changes the responsibilities and the relationships remain the same.

MODERN MODEL TRUSTS

Pre-agreed trusts for residential property have been available for many years. These trusts enabled property to be safeguarded so that it was available for the Baptist church to use but provided some flexibility in using money from a property sale.

The standard manse trusts have been the Kingsgate Trusts, available between 1951 and 1962, the Holborn Trusts, available between 1962 and 2003. The current Baptist Trusts for Churches 2004 can be adopted either as the trusts for a newly purchased property or as a way of updating older or inappropriate trust arrangements.

For a more detailed explanation please see T02 *Modern Model Trusts*.

STANDARD BAPTIST TRUSTS

A Baptist church buying a new manse may decide to adopt the Baptist Trusts for Manses 2004 which are a pre-prepared set of arrangements for residential properties. They are Model Trusts, agreed in advance and accepted by the Charity Commission. For a longer explanation please refer to our leaflet T02 *Modern Model*

Trusts.

A copy of these Model Trusts is available in leaflet form T11 *Baptist Trusts for Manses 2004* from the Baptist Union Corporation or from the website. There are several distinct advantages of adopting the Baptist Trusts for Manses 2004:

- The Trusts have been in existence for some time and have been agreed with the Charity Commission. There is no need to reinvent the wheel!
- They can be adopted by including a short and simple clause in the purchase document. This avoids the need to draft a new lengthy and costly document.
- There is consistency between different churches.

If a church is purchasing a manse for the first time or purchasing an additional manse for a second minister or if for some reason the present manse trusts are not adequate the church could use the Baptist Trusts for Manses 2004 to update the previous arrangements.

DECISIONS ABOUT MANSES - SPECIAL CHURCH MEMBERS' MEETING

Any questions about a manse will usually first be considered by the Charity Trustees (diaconate or leadership team). In due course, however, resolutions for the appointment of trustees and the adoption of model trusts or the sale or letting of any property must be brought to a Church Members' Meeting.

In most churches the Constitution (governing document), the Trust Deed or any Church Rules require property matters to be considered by a Special Church Members' Meeting. This usually means that notice of the meeting, and an indication of the purpose of the meeting, must be given at the services on two previous Sundays. The arrangements will vary between churches so please check your documents.

To be successful a resolution at a Special Church Members' Meeting must usually have the support of at least two-thirds of the members personally present, entitled to vote and voting at the meeting. It is important to check what the local church Constitution requires.

When a decision is made and specific legal actions are needed a copy of the resolution of the Special Church Members' Meeting should be sent to the Baptist Union Corporation.

WHEN TO CONSULT THE BAPTIST UNION CORPORATION (OR OTHER BAPTIST TRUST CORPORATION)

In the following sections we refer to the Baptist Union Corporation, but similar arrangements will apply to the other Baptist Trust Corporations whose contact details are included at the end of this leaflet.

Although the Charity Trustees, acting on behalf of the church, will be responsible for looking after the manse there will be occasions when the Baptist Union Corporation, as Holding Trustees, need to be consulted and involved.

The Baptist Union Corporation should be consulted if work of a structural nature, or alterations requiring planning consent, are proposed. Our leaflet PC04 *Redeveloping or Altering Church Premises* offers some guidance. It is important to remember that manses are not always classed as residential property – so read the PC04 leaflet *Redeveloping or Altering Church Premises* carefully. For even routine building work the Construction (Design and Management) Regulations can apply, see our PC05 leaflet. Our Health and Safety leaflet L10 mentions the need for regular checks on gas and electrical services. This is also mentioned in our leaflet PM06 *Manse Occupancy*.

The following leaflets are available that are relevant specifically to manses:

PM01	<i>Buying a Manse</i> (includes obtaining a mortgage)
PM02	<i>Selling a Manse</i>
PM03	<i>Shared Ownership of a Manse</i>
PM04	<i>Letting a Manse</i>

PM05	<i>Leasing a Property (in whole or in part by a Minister) to a Church for use as a Manse</i>
PM06	<i>Manse Occupancy</i>
T09	<i>Kingsgate Trusts</i>
T10	<i>Holborn Trusts</i>
L10	<i>Health and Safety and Fire Precautions</i>
T11	<i>Baptist Trusts for Manses 2004</i>
PC05	<i>Construction (Design and Management) Regulations</i>

APPOINTING A SOLICITOR

In all property matters a solicitor will be needed.

The solicitors who act for the Baptist Union Corporation Limited are:

Anthony Collins Solicitors LLP
134 Edmund Street
Birmingham
B3 2ES

Tel: 0121 200 3242
Fax: 0121 212 7442

DX 13055 Birmingham 1

www.anthonycollins.com

Email: esther.campsall@anthonycollins.com. Please make initial contact with Esther Campsall.

Churches in the South West Baptist Association should contact:

Clarke Willmott LLP
Blackbrook Gate
Blackbrook Park Avenue
Taunton
TA1 2PG

Tel: 0845 209 1813
Fax: 0845 209 2548

DX 97175 Taunton Blackbrook

www.clarkewillmott.com

Email: Tim.Walker@clarkewillmott.com. Please make initial contact with Tim Walker.

All their staff are committed to working with us and for you in a way that reflects our shared Christian values and Baptist ethos. This firm of solicitors has experience in dealing with churches and the special trust arrangements that are required for church property.

The legal costs associated with your property transaction will be payable by the church, not the Baptist Union Corporation Limited. If you decide to ask Anthony Collins Solicitors LLP or Clarke Willmott LLP to do the work this may help avoid any misunderstandings or delays. They are familiar with our requirements.

At the start of a transaction or piece of work they will where possible give a formal estimate of the forecast costs and expenses. They will ask your church to formally confirm details of the work you are asking them to undertake and that you understand the arrangements for the payment of the legal costs. These estimates and instruction letters will be quite formal. This is because they need to comply with the requirements for all solicitors set by The Law Society.

If the work becomes more complicated than was originally anticipated then they will tell you as this may affect the forecast costs. You should not be presented with a larger bill than you are expecting.

Sometimes a church will know a local solicitor they wish to instruct to act for them in a property transaction. Please remember that there are additional requirements in acting for a Baptist church that is governed by the various Charities Acts and where a trust corporation holds legal title. You should ensure that the solicitor you have chosen has experience in dealing with conveyancing transactions of this type.

We will provide as much helpful information as possible to a local solicitor but Anthony Collins Solicitors LLP or Clarke Willmott LLP will still act for the Baptist Union Corporation Limited. The Baptist Union Corporation Limited will need Anthony Collins Solicitors LLP to approve documents that are to be signed or sealed by the Baptist Union Corporation Limited. Any costs associated with our Solicitors involvement in a transaction are payable by the church.

THE CORPORATION'S EXPENSES

Although all outgoings incurred by the Baptist Union Corporation are the responsibility of the church we normally make no charge for the many services and advice we provide for the Baptist churches in trust with us. We are pleased to be able to help. We ask, however, that when we are involved in a property transaction the church concerned makes a contribution towards our expenses.

This means that we are free from being a charge on Home Mission and we aim to contribute to the Home Mission budget each year.

We normally request churches to make the following contribution towards our expenses.

- When property is sold or purchased on behalf of a church a contribution of up to 0.5% of the capital cost.
- When there is a simultaneous sale and purchase a contribution of up to 0.375% of the combined capital cost.

CHECKLIST FOR MANSES

- ❑ Consider whether the Baptist Trusts for Manses 2004 are appropriate to your circumstances.
- ❑ Use the application form to appoint the Baptist Union Corporation as trustees of a manse or in the leaflet T03 *Appointing Property Trustees – Baptist Trust Corporations*.
- ❑ Use model resolution requesting the Baptist Union Corporation to adopt the Baptist Trusts for Manses 2004 for a manse in the leaflet T02 *Model Trusts*.
- ❑ Consider requirements for Special Church Members' Meeting.
- ❑ Hold Special Church Members' Meeting and send to Baptist Union Corporation copies of resolutions relating to appointment of trustees and if necessary adoption of Model Trusts.
- ❑ If the church already owns a manse send the title deeds by registered post to the Baptist Union Corporation or let them know where the title deeds are being held.
- ❑ Confirm to Baptist Union Corporation that Anthony Collins Solicitors LLP are to act for the church or give details of other solicitors and confirm that the church will be responsible for any additional costs incurred by the Baptist Union Corporation.

These notes are offered as guidelines by The Baptist Union Corporation Limited to provide information for Baptist churches.

These notes can never be a substitute for detailed professional advice if there are serious and specific problems, but we hope you will find them helpful.

If you want to ask questions about the leaflets and one of the Baptist Trust Companies are your property trustees, you should contact them. They will do their best to help.

If your church property is in the name of private individuals who act as trustees they may also be able to help.

Association Trust Company	Contact
Baptist Union Corporation Ltd East Midland Baptist Trust Company Ltd	Baptist Union Corporation Ltd Baptist House PO Box 44 129 Broadway Didcot Oxfordshire OX11 8RT Telephone: 01235 517700
Heart of England Baptist Association	Heart of England Baptist Association BMS Birmingham 24 Weoley Park Road Selly Oak Birmingham B29 6QX Telephone: 0121 472 4986
London Baptist Property Board	London Baptist Association Unit C2 15 Dock Street London E1 8JN Telephone: 020 7692 5592
Yorkshire Baptist Association	17-19 York Place Leeds LS1 2EZ Telephone: 0113 278 4954
West of England Baptist Trust Company Ltd	West of England Baptist Trust Company Ltd Little Stoke Baptist Church Kingsway Little Stoke Bristol BS34 6JW Telephone: 0117 965 8828

This is one of a series of *Guidelines* that are offered as a resource for Baptist ministers and churches. They have been prepared by the Legal and Operations Team and are, of necessity, intended only to give very general advice in relation to the topics covered. These guidelines should not be relied upon as a substitute for obtaining specific and more detailed advice in relation to a particular matter.

The staff in the Legal and Operations Team at Baptist House (or your regional Trust Company) will be very pleased to answer your queries and help in any way possible. It helps us to respond as efficiently as possible to the many churches in trust with us if you write to us and set out your enquiry as simply as possible.

The Legal and Operations Team also support churches that are in trust with the East Midland Baptist Trust Company Limited.

If your holding trustees are one of the other Baptist Trust Corporations you must contact your own Trust Corporation for further advice. A list of contact details is provided above. If you have private trustees they too should be consulted as appropriate.

Contact Address and Registered Office:

Support Services Team, Baptist Union of Great Britain, Baptist House, PO Box 44,
129 Broadway, Didcot OX11 8RT
Tel: 01235 517700 Fax: 01235 517715 Email: legal.ops@baptist.org.uk
Website: www.baptist.org.uk Registered CIO with Charity Number: 1181392

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