

## **Guideline Leaflet PC14: Church Car Parks**

This leaflet contains information about some of the most common issues that can affect church car parks.

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](http://www.baptist.org.uk/resources)

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

# PC14: Church Car Parks

**These notes are offered as guidelines by the Legal and Operations Team to provide information for Baptist churches.**

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[L17 Legal and Operations Team – Regulatory Information](#)

**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 Holding 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.**

## CHURCH CAR PARKS

Whilst a car park can be a valuable facility for a church, a car park can often be a source of problems.

### UNAUTHORISED PARKING

Difficulties can be caused when the church's car park is used by people otherwise than in connection with the church. Such use could be, for example, by people from outside the immediate locality using the car park in order to go to nearby shops or places of work.

Other possible uses could include where the owner or occupier of adjacent or nearby land uses the church car park for additional parking in connection with their property. Such a use poses particular problems as, in certain circumstances, an adjacent or nearby landowner can acquire a legal right to park (called a prescriptive easement) over a long period of time. The right can 'attach' to the user's land and, once acquired, is capable of being passed to successive owners of that land forever. To prevent such a right arising it is important that the church takes appropriate action. One option is to communicate that the use is not permitted by the church and appropriate signage may be a helpful way of doing this. (Because of the potential long-term consequences, any church affected by such a use may wish to contact the BUGB Legal and Operations Team for a discussion of the individual circumstances of their case).

### Signage

Signage can be a relatively low-cost tool in combatting unauthorised parking. A sign or signs making it clear that the car park is a private car park for use by the church and its visitors only and that no other persons are permitted to use the car park may deter some unauthorised users. Such signage also has the effect of making it clear that any unauthorised person who continues to park is not doing so with the permission of the church. Any sign(s) should be fixed, continuously present, of an appropriate size, clearly legible and prominently displayed. (Where a church has a listed building they may wish to contact the BUGB Legal and Operations Team before putting up any new signs).

In many cases appropriate continuous signage can be a proportionate response to demonstrate a church's continuing objection to an unauthorised use. However, it may be that in some serious circumstances, a greater response may be advisable and letters of objection or further action might be appropriate.

## Physical barriers

Another possible solution to prevent unauthorised use (and where appropriate, long term rights from arising) could be to make use of a physical barrier to prevent access to the property. This could be, for example, a chain or some other type of moveable barrier. However, such a solution can be hard to reconcile with the practical need of ensuring that the church's legitimate visitors still have access to the church car park when they need to. Even a barrier with an access code or a padlock with a combination lock would need to be managed in terms of persons to whom the code is given. There are also some legal considerations to implementing such a solution (see *Prohibition on wheel clamping etc* below).

A church with a physical barrier can also choose to close its car park periodically to prevent entry as a measure against another user acquiring rights over the church property. This may be an alternative to closing the property off at all times and may, depending on the time of closure, be effective to prevent a degree of unauthorised parking.

## Prohibition on wheel clamping etc

Persistent unauthorised parking can be very frustrating for a church especially if spaces are not available for church members during services. However, under the Protection of Freedoms Act 2012 it is now a criminal offence for anyone to immobilise, remove or restrict the movement of vehicles without lawful authority where the intention is to prevent the removal of the vehicle by a person otherwise entitled to remove it. The fact that a vehicle is parked on private church land will not give the church the necessary lawful authority. Nor would the fact that the person parking may have arguably consented to such action, e.g. by parking notwithstanding a sign saying that they may be clamped etc. A church should, therefore, assume that it cannot wheel-clamp or otherwise restrict the movement of even the most persistent of unauthorised users.

There is an exception to this: where a vehicle's movement is restricted by means of a fixed barrier and the barrier was present (whether or not lowered into place or otherwise restricting movement) when the vehicle was parked, the person parking may be found to have consented to the vehicle's movement being restricted and, in such circumstances, this may be considered lawful authority to restrict a vehicle's movement. Whether consent can properly be said to have been given may depend, among other things, on how clear or prominent the barrier was when the driver entered. A chain wrapped around a post may not be clearly visible enough. In light of the potential for criminal liability, the safest option is for churches to use any barriers to keep unauthorised users out rather than to lock them in. The same consideration would apply on occasions when a church may wish to periodically close the car park.

Because the exception permitting the movement of vehicles to be restricted by a barrier only applies when the barrier *was present when the car was parked*, any church installing a barrier for the first time should ensure the car park is free of unauthorised vehicles before the barrier is used to restrict vehicles coming in if the use of the barrier will also restrict the movement of vehicles coming out.

## Abandoned vehicles

Sometimes, a vehicle may be left in church car park for so long that a church may consider whether it has been abandoned rather than simply parked.

Generally speaking, the relevant Local Authority has a duty to remove abandoned vehicles from land in the open air within its area and it cannot charge the landowner for doing so. If a church reports a vehicle which has been left in a church car park for some time to the Local Authority, the Council will decide whether it believes the vehicle to have been abandoned. Factors indicating abandonment include: the vehicle is untaxed (this can be checked online at <https://www.gov.uk/check-vehicle-tax>); it has been left stationary for a significant period; it is significantly damaged, run down or is unroadworthy (e.g. it has flat tyres, is missing wheels or has smashed windows); it is missing a number plate or is burned out.

Once it is satisfied the vehicle has been abandoned, the Council will serve a 15 day notice on the church/its property trustee(s). As long as the church/property trustee does not object to the removal of the vehicle then, if the vehicle is still there, it will be removed at the end of that time.

## **Parking enforcement firms**

A church that is having significant difficulties with unauthorised parking might wish to be aware that some companies (who are authorised to obtain driver details from the DVLA) provide a commercial parking enforcement service. Many of these companies have websites and their terms and conditions vary. We cannot recommend any company or even using one because it is a matter for the church to decide whether this sort of arrangement is a proportionate response to its car park problems and, if so, to choose an arrangement and a contractor suitable for its needs. Any church considering entering into a contract with one of these companies needs to be clear before entering into any contract about the terms and conditions including the maximum cost payable, the duration of the agreement, termination arrangements and fees and what the church's and the company's responsibilities would be.

## **WHEN A CHURCH WANTS TO PERMIT PARKING FOR A USE UNCONNECTED WITH THE CHURCH**

Sometimes a church might wish to expressly permit someone, e.g. a neighbour, to use its car park. Other than in circumstances where this is a 'one-off' or for a very short period we would recommend that such use is documented.

The nature of the documentation will depend on the circumstances but a letter of permission (a licence) or even a short lease may be appropriate. Documenting such an arrangement is particularly important where: there may be some element of commercial use (e.g. the parking of business vehicles); or the user owns nearby or adjoining property or where it is intended that the arrangement will continue for the foreseeable future. This is to ensure that the church is adequately protected and the user knows that their use is by permission. The document can also make sure that the user is clear about their responsibilities (e.g. not allow oil to leak onto the car park etc). Depending on the circumstances, professional advice may be needed. If a church wishes to enter into such an arrangement or is in doubt as to whether an existing arrangement is adequately documented, it may wish to contact the BUGB Legal and Operations Team in the first instance.

## **PHYSICAL CONDITION OF THE CAR PARK AREA**

The church owes a general duty of care to all its visitors to take such care as is reasonable in all the circumstances in respect of dangers due to the state of the premises or to things done or omitted to be done on them. This duty applies as much to the car park as it does to the rest of the church property and the car park is, of course, an area that is particularly accessible to people. The church should, therefore, as part of its overall risk assessment procedure (see our Guideline Leaflet L10 (Health and Safety and Fire Precautions) [www.baptist.org.uk/resources/L10](http://www.baptist.org.uk/resources/L10)), periodically check the car park for potential dangers and, where appropriate, take steps to mitigate these.

It is impossible to list all possible risks here but particular concerns may include, tripping hazards such as potholes, steep slopes and slippery surfaces, unsafe boundary walls and areas where the level of the car park may suddenly change where there may be no railings. In determining the appropriate action, the church needs to consider all the circumstances including the degree of risk, the gravity of a potential injury and the cost of preventative measures.

As well as being available to visitors, church car parks are often easily accessible by trespassers (including people parking there without permission). The church still owes a duty of care to trespassers where the church is aware of a danger or has reasonable grounds to believe that a danger exists. The duty applies where the church knows or has reasonable grounds to believe that a trespasser is in or may come into the vicinity of the danger and the risk must be one against which, in all the circumstances of the case, the church may reasonably be expected to offer some protection. Churches, therefore, need to bear this in mind as part of their risk assessment of the car park.

A church should, of course, always ensure that sufficient and suitable public liability insurance is in place in relation to its car park. Churches should check that their car park is covered by such insurance, particularly when the church car park does not form part of the main church site. If the church is in any

doubt about whether it is adequately insured, it should contact its insurer. A church should comply with all the recommendations of its insurer.

## **MARKING**

Some problems can be overcome by clearly marking out parking bays or hatching areas which should not be driven over or parked on (e.g. the area outside a fire exit or to create a safety zone around a structure that might be hard to see by a driver and may be at risk of being hit by a passing vehicle). (Where a church has a listed building they may wish to contact the BUGB Legal and Operations Team before making any new markings).

## **DISCLAIMERS**

In some churches the car park is only used by the church members and congregation. In other churches, the car park is used by many people attending classes and groups run by people hiring the hall and many car park users have no other connection with the church. Depending on the circumstances, some churches may choose to use a notice of disclaimer, for example, to make it clear to persons parking that vehicles and their contents are left at the owner's own risk and that no liability is accepted for any loss or damage to vehicles or their contents. The utility of such notices is often in simply deterring people from contacting the church out of a belief that the church may have been somehow responsible for a third party breaking into or otherwise damaging their car.

A church cannot by the use of a disclaimer exclude liability in relation to personal injury or death caused by the church's negligence. Therefore, in the highly unlikely event that the church was negligent in managing the state of condition of the premises such that they became dangerous and someone was injured or killed, the church may still be liable even if it had tried to use a disclaimer notice to exclude this liability. Churches should not seek to use disclaimers expressly seeking to exclude these types of liability.

## **ENVIRONMENTAL CONSIDERATIONS**

As part of our call to share in God's mission to all of creation, when considering maintenance and development of church premises, manses and land, we should include a consideration of the environmental impact. Statutory requirements will mandate adherence to a range of environmental standards but churches are also urged to take a broader view of the impact of the use of their property and development of their buildings on the environment, seeking to make them and church life in general as sustainable and environmentally friendly as possible. Churches considering projects such as building insulation, solar panels or heat pumps should take a balanced view, giving thought not only to the proposed environmental benefits but also to any wider consequences, including costs, and seek professional advice before proceeding, to ensure that they are acting in the best interests of the church charity.

The Baptist Union Environmental Network ('BUEN') webpage [here](#) has links providing general advice regarding buildings and land. Further advice can be found in the Baptist Union's [Transform leaflets](#) in the "Environmental Issues" section. Churches may wish to undertake their own environmental audit using online resources such as the survey provided by A Rocha for their [Eco Church scheme](#) or BMS Worldmission's [Carbon Calculator](#), but appropriate professional advice should always be sought in connection with the planning of any building works or projects. Grants may be available from national and local governments.

Association Trust Company	Contact
<b>Baptist Union Corporation Ltd East Midland Baptist Trust Company Ltd</b>	Baptist Union Corporation Ltd Baptist House PO Box 44 129 Broadway Didcot Oxfordshire OX11 8RT Telephone: 01235 517700
<b>Heart of England Baptist Association</b>	Heart of England Baptist Association 480 Chester Road Sutton Coldfield B73 5BP Office Mobile: 0730 505 1770
<b>London Baptist Property Board</b>	London Baptist Association Unit C2 15 Dock Street London E1 8JN Telephone: 020 7692 5592
<b>Yorkshire Baptist Association</b>	17-19 York Place Leeds LS1 2EZ Telephone: 0113 278 4954
<b>West of England Baptist Trust Company Ltd</b>	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:**

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