

# **Church Constitutions, Charity Registration and CIOs: Getting ready for 2021**

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# Outline

1. Baptist church governance
2. Charity registration and Exempting Regulations
3. Incorporation as a CIO
4. Questions

# Baptist churches as charities

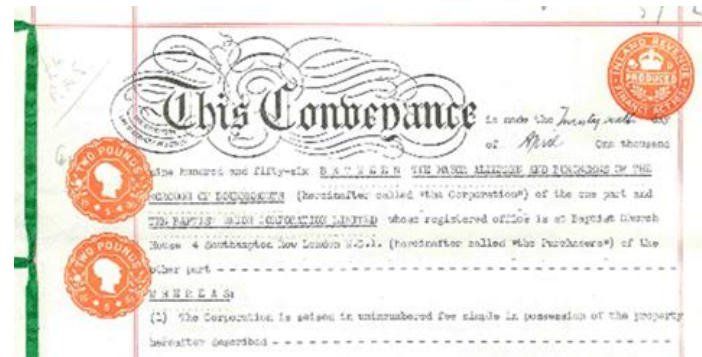
- All Baptist churches are charities
- Established for a “charitable purpose” – the advancement of religion
- Must be for the public benefit
- Guideline Leaflet C01

[www.baptist.org.uk/resources/C01](http://www.baptist.org.uk/resources/C01)

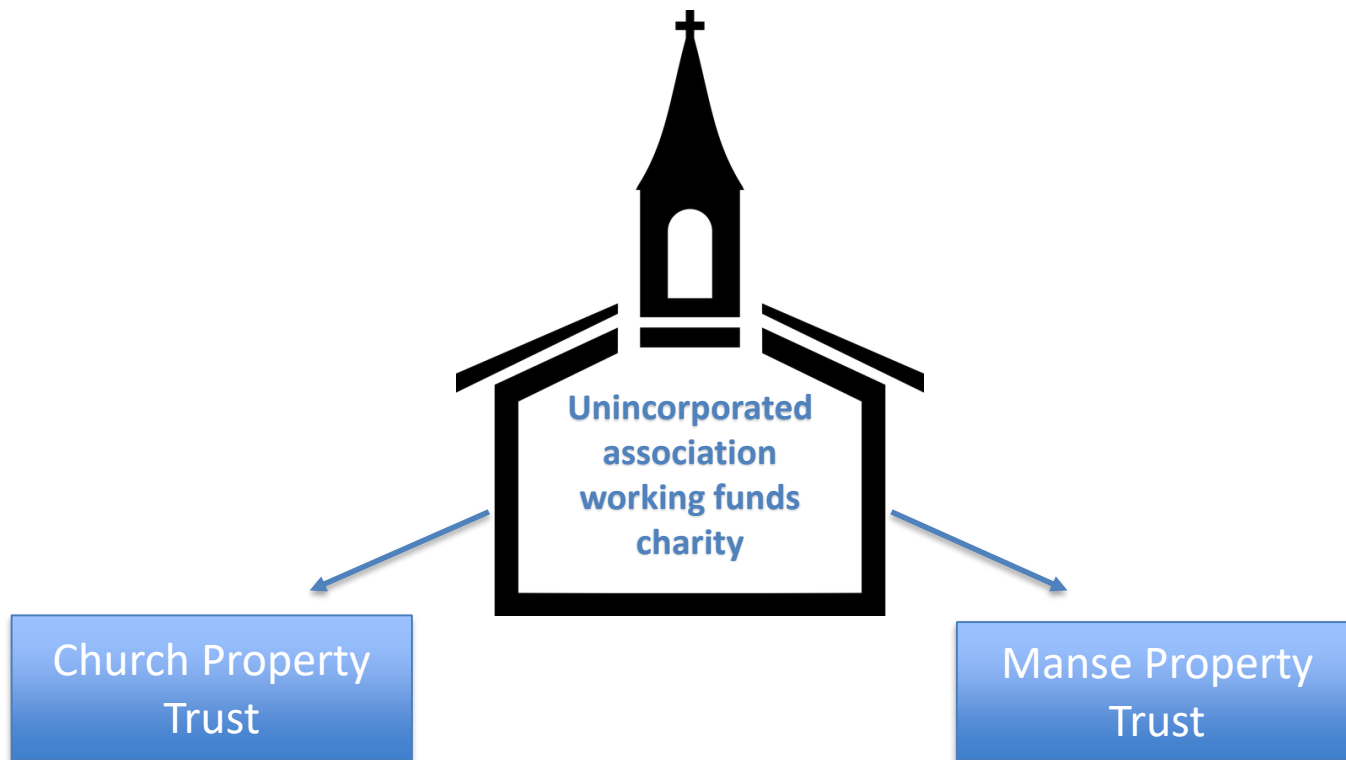


# Baptist church structure

- Early Baptists and ownership of property
- Trust Deeds and Rules
- Baptist churches are unincorporated associations



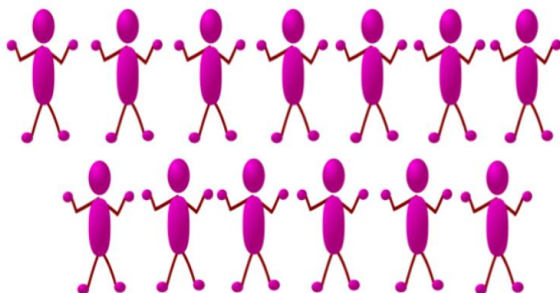
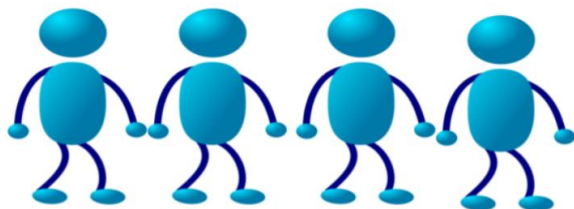
# Baptist church structure



# Baptist church structure: members of the church



# Baptist church structure: charity trustees/deacons/elders/ministers



# Baptist church structure

An unincorporated charity does not have ‘legal personality’ so cannot itself

- enter into contracts; or
- hold property

Acts through its “charity trustees” – in a Baptist church the charity trustees are usually the minister, treasurer, church secretary, deacons, elders (if any) or ‘leadership team’



# Baptist church structure

## Section 177 Charities Act 2011

*In this Act, except in so far as the context otherwise requires, “Charity Trustees” means “the persons having the general control and management of the administration of a charity”.*

- Charity Trustees owe obligations to the charity and are accountable to the Charity Commission
- The charity’s dealings with third parties are done through the Charity Trustees

# Charity registration

- Charity registration for churches with income over £100,000 became mandatory in 2008
- Need for single, comprehensive governing document
- Development of Approved Governing Document (AGD) suitable for an unincorporated Baptist church
- Reflected established patterns and congregational governance

# Baptist church structure and Charity Commission registration

- Satisfied Commission – identified group of Charity Trustees who had legal and financial responsibility together with patterns of church members' meetings
- 2018 review identified that AGD has been working well



CHARITY COMMISSION  
FOR ENGLAND AND WALES

# End of Excepting Regulations

- Churches with income of less than £100,000 are currently excepted from registration until end of March 2021
- Churches with an income of over £5,000 will have to register (c.1,500 Baptist churches)
- Possible phased registration?
- Early voluntary applications not allowed

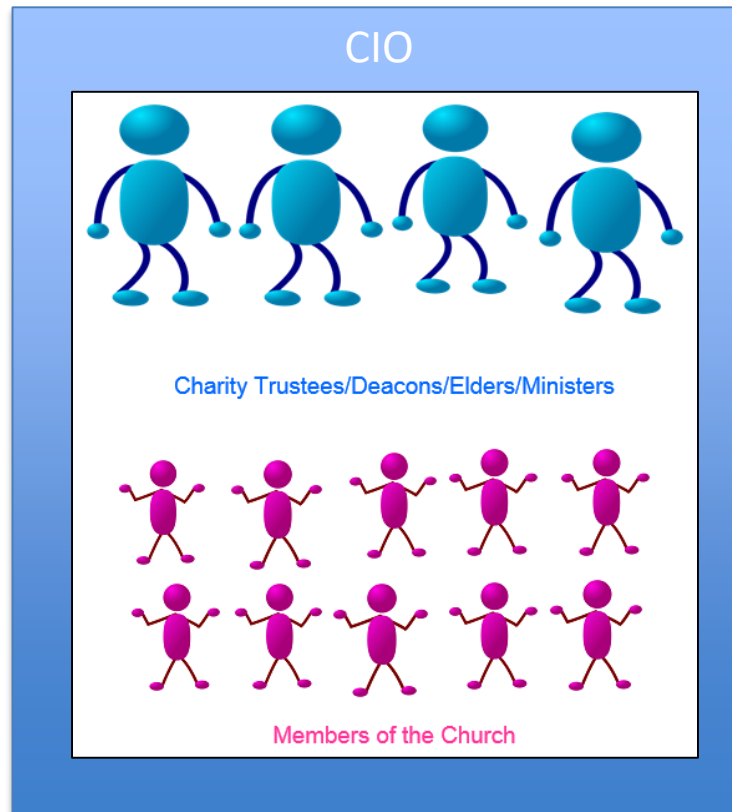
# End of Excepting Regulations

- Churches can be preparing now
- Adopt the Baptist Approved Governing Document for unincorporated churches in readiness (See Guideline leaflets C04 and C05)
- Register if income exceeds £100,000 before April 2021
- Consider becoming a CIO – can register at any point with Commission

# Why change your legal structure?

- ✓ Risk profile of the church
- ✓ Concerns about personal liability
- ✓ BUGB is incorporating as a CIO
- ✓ Other churches have done so
- ✓ End of Excepting Regulations
- ✓ Church development project
- ✓ Other reasons?

# Baptist church structure: CIO



# Charitable Incorporated Organisations (CIOs)

- Incorporated structure for charities offers protection from personal liability
- Only report to the Charity Commission, not Companies House
- Association model CIO: organisation's membership separate from trustees – appropriate for a Baptist church



# Charitable Incorporated Organisations (CIOs)

- Approved Governing Document for Baptist church CIOs which reflects Baptist patterns and principles
- Can be developed to support new and pioneering churches

Clause Number	
	Date of constitution (last amended):
<b>1</b>	<b>Name</b>
	The name of the Charitable Incorporated Organisation is XYZ Baptist Church ("the Church").
<b>2</b>	<b>National location of principal office</b>
	The Charitable Incorporated Organisation must have a principal office in England or Wales. The principal office of the Church is in [England] [Wales].
<b>3</b>	<b>Purpose</b>
<b>3.1</b>	The principal purposes of the Church are: -
<b>3.1.1</b>	The advancement of the Christian faith according to the principles of the Baptist denomination.
<b>3.1.2</b>	The Church may also advance education and carry out other charitable purposes in the United Kingdom and/or other parts of the world.

# Legal personality

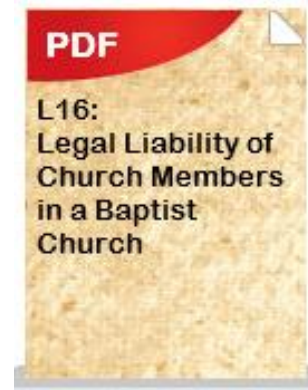
- CIOs can enter into contracts directly rather than in the names of charity trustees
- Helpful for church building projects and other key contracts
- CIOs can hold property in their own name
- Majority of Baptist church CIOs are leaving their property with Baptist Trust Corporations

# Protection from potential personal liability

- Limitation of liability in a CIO
- Changing legal climate with increased litigation
- More information: *L16 Legal Liability of Church Members in a Baptist church*

[www.baptist.org.uk/resources/L16](http://www.baptist.org.uk/resources/L16)

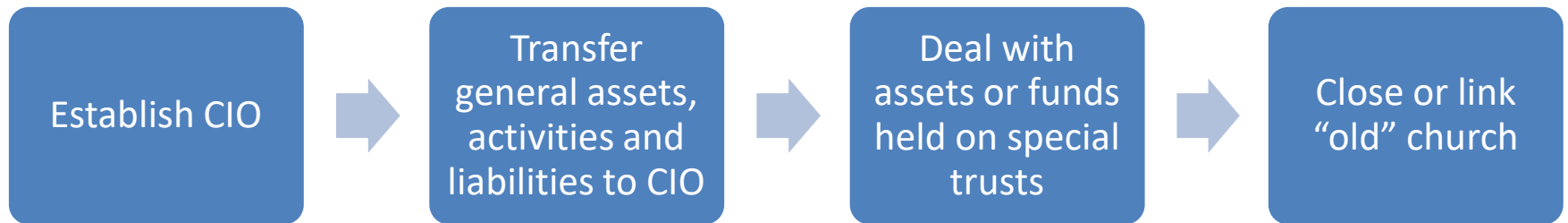
- Trustee recruitment



# Modernisation

- Most new charities now established as CIOs – 15,000 registered since 2012
- Approximately 75 Baptist churches are already registered as CIOs

## Process overview



# Establish the CIO



- Request copy of BUGB CIO Constitution ([Esther.Campsall@anthonymcollins.com](mailto:Esther.Campsall@anthonymcollins.com))
- Agree terms of copyright licence
- Review Constitution
- In principle Special Church Members' Meeting resolution
- Register CIO with Charity Commission – many ask solicitors to do this but see *C08 Registering as a CIO Online* [www.baptist.org.uk/resources/C08](http://www.baptist.org.uk/resources/C08)

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# Asset Transfer

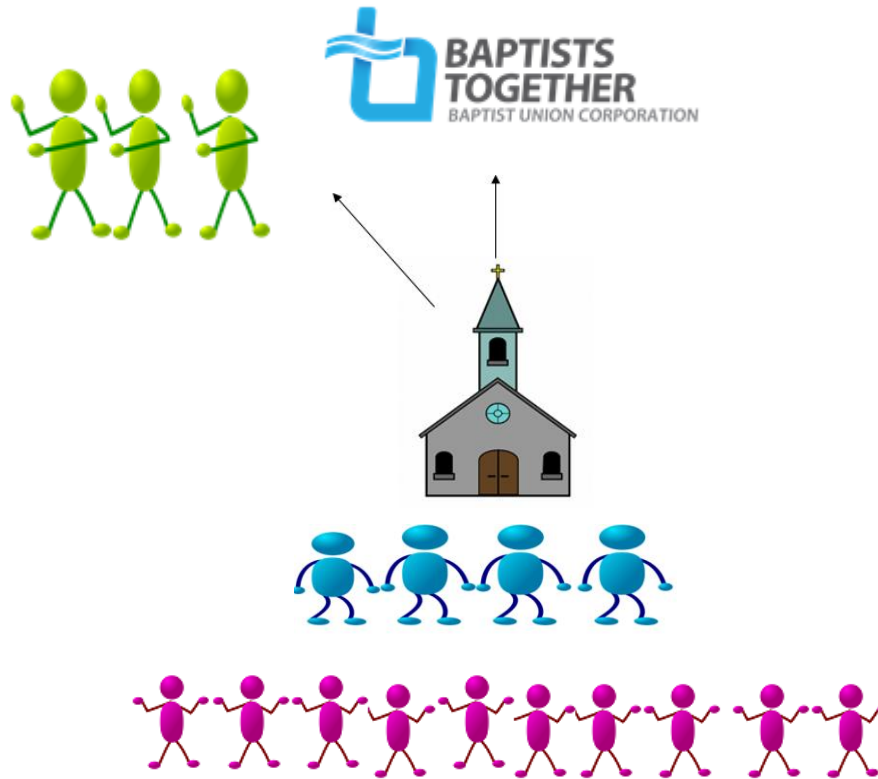
- **Take advice from solicitors**
- Identify assets, activities and liabilities to transfer to CIO
- BEWARE of creating a pension cessation event (Pensions Manager, Steve Kaney [skaney@baptist.org.uk](mailto:skaney@baptist.org.uk))
- Consult with other “stakeholders” – e.g. grant providers, lenders, pension providers, tax advisers, VAT advisors, insurers, holding trustees, employees (TUPE)
- Leadership team agree Asset Transfer Agreement
- Special Church Members’ resolution

# Property and Special Trusts

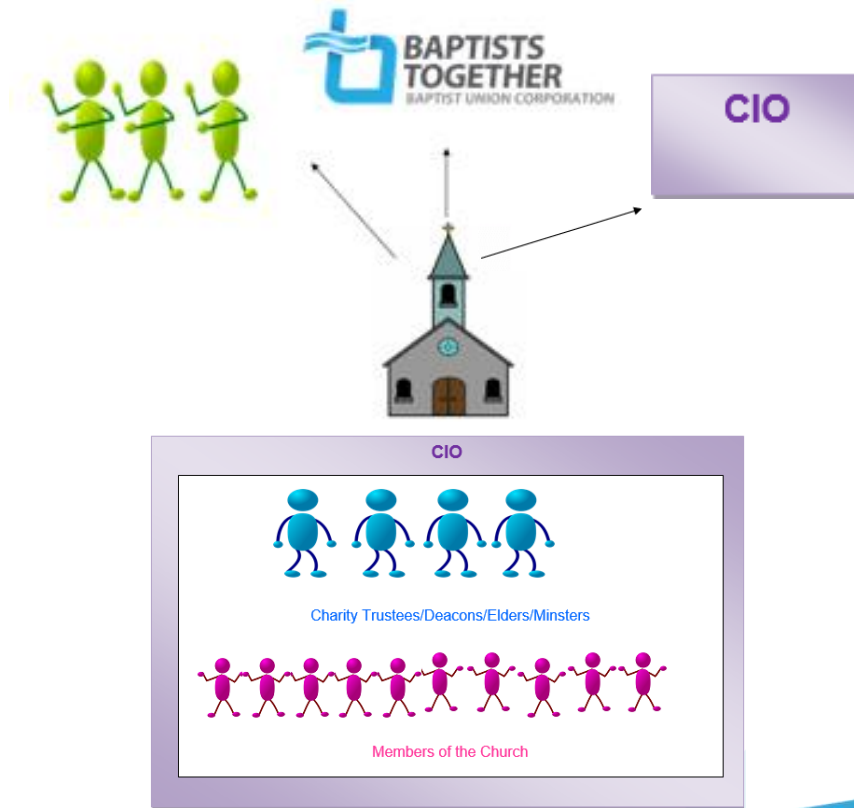
- Likely to need specialist legal advice on historic Foundation Deed(s)
  - Process available for transferring to CIO to hold property or funds held on “permanent endowment” trusts – CIO acts as trust corporation
  - May require consents and/or amendment to trust deeds
- OR
- Do not move property or funds held on separate trusts but agree CIO will be “beneficiary” church (most churches have chosen this route so far)



# Property Holding Trustees

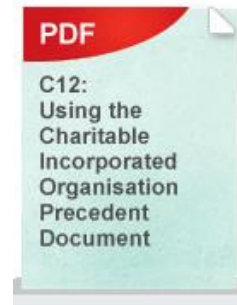
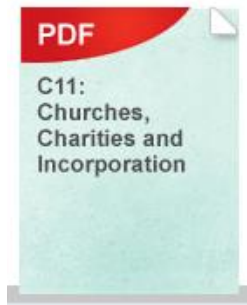


# Property Holding Trustees



# Final thoughts

- BUGB guideline leaflets on website:



- CIO training days and webinar on website
- Further questions to Legal and Operations team:  
[legal.ops@baptist.org.uk](mailto:legal.ops@baptist.org.uk)

Any questions?