

BUC GUIDELINES

A5 Letting a Manse (12/2008)

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.

DECIDING TO LET

For various reasons a church may decide that it is right to let their manse. It may be that the minister and the church have agreed that the minister will live in the minister's own property.

Perhaps the church is at present without a minister and it looks as though it may be some time before a settlement is achieved. Or it may be that the church feel they are no longer able to support a minister and can see no prospect of being able to do so in the immediate future. Whatever the reason the possibility of letting the manse will first be discussed by the diaconate.

If the reason for letting is because the minister is living in another property which is owned by the minister, either alone or jointly with the church, then you should also read A4 *Shared Ownership of a Manse* and A8 *Leasing a Property (owned in whole or in part by a Minister) to a Church for use as a Manse*.

You may think that there really is no prospect of the church being able to support full-time pastoral ministry – at least in the foreseeable future. If that is the case you may want to consider selling the manse and you will find it helpful to refer to leaflet A3 *Selling a Manse*, but before taking any action the church is recommended to consult the Regional Minister for the area.

The diaconate should appoint one of their number, or perhaps some other suitably experienced church member who has the confidence of the church, to act as the contact person for the whole process.

The proposals must be discussed by a Church Members' Meeting. In most churches the Trust Deeds or the Constitution 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.

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 this point in case there are special requirements in the case of your church.

It will be best if the members resolve in principle to let the manse and leave it to the diaconate to agree all the details.

If the manse is mortgaged the church will need to obtain the consent of the Building Society or other lender.

When the legal ownership of the manse is in the name of the Baptist Union Corporation, as Holding Trustees for the church, it is usual for all documents relating to a long term letting arrangement to be signed on behalf of the Baptist Union Corporation.

However, it is thought to be more convenient, for short residential lettings to be dealt with by the diaconate, as Managing Trustees. The documents should be in the name of the church and signed on behalf of the church by (say) the church secretary. The Baptist Union Corporation are only happy for this to be done for lettings created as an Assured Shorthold Tenancy.

AVOIDING PITFALLS

Difficulties easily arise with the letting of residential property, bearing in mind that in due course the church will need to regain possession. Unless good professional advice is obtained and the letting is properly documented it may be found that the tenants are unwilling to leave at the end of the agreed term and the courts unable to evict them – which could be disastrous for the church and an embarrassment to all concerned.

ASSURED SHORTHOLD TENANCIES

An Assured Shorthold Tenancy allows property owners to let residential property with the knowledge that they will be able to regain possession at the end of the agreed term. Assured Shorthold Tenancies may be furnished or unfurnished. Although they can now be granted for any period the Courts will not issue an Eviction Order earlier than six months from the start of the Tenancy. The owners will remain responsible for the structure, for external repairs and maintenance and for insurance. All other matters, including the payment of outgoings should be made the responsibility of the tenants.

The following are some of the essential points to bear in mind:

- BEFORE potential tenants are allowed to move into the property proper documentation must be completed. If a tenant is allowed into possession before the Agreement is signed there could be disagreement as to the terms of the Tenancy which could even prevent the church from recovering possession when it wanted the property back.
- We strongly recommend that any tenancy agreement is prepared by a solicitor or professional firm of Agents, Surveyors or Letting Agents.

The church may want to consider appointing a professional agent to let and manage the tenancy, although there will be cost implications.

- The Tenancy Agreement will be prepared in duplicate. One copy will be signed on behalf of the church and the other copy will be signed by the tenants. If the letting is furnished an inventory needs to be prepared detailing the items at the property. A copy of the inventory must be attached to each copy of the Tenancy Agreement and also signed by the persons signing the Agreement. The signed Agreements will then be exchanged so that the church or their agent has the copy signed by the tenants and vice-versa.
- Even if the term of the tenancy is fixed it does have to be brought to an end by the church serving on the tenants a notice – in a prescribed form – two calendar months before the end of the term. If the notice is not served the tenants will continue to have the benefit of the tenancy until a notice is served by the church giving at least two calendar months' notice and which expires on the last day of a rental period.
- Even if all the documentation is correctly dealt with and the notices properly served if the tenants refuse to leave they cannot be evicted without an order from the court.

SETTING THE RENT

An essential point to bear in mind is that the law regards a Baptist church as a charity. This means that in letting property – including a manse – the Baptist Union Corporation, as Holding Trustees, and the diaconate, as Managing Trustees, must act in accordance with the provisions of the Charities Act 1993.

The Act requires trustees, in dealing with a letting such as this, to obtain and consider advice on the tenancy from 'a person who is reasonably believed by the trustees to have the requisite ability and practical experience to provide them with competent advice on the proposed disposition'. Having obtained this advice the Act requires the trustees to be satisfied that the terms on which the disposition is proposed to be made are the best that can reasonably be obtained for the charity'.

Sometimes there will be somebody in the church who has a good knowledge of local rental values and can advise on the amount of rent to be charged. If that is not the case you must obtain advice from a property letting agency or a local estate agent.

The church may want to consider letting the property at less than the market rent – for example to a family in the community who are in particular need or perhaps to a retired minister or some other Christian worker. It must be remembered, though, that if the letting is at the market rent the tenant may well be able to obtain housing benefit so that in effect the rent is being paid from public sources. This will mean that both the tenant and the church are truly benefiting from the letting of the manse. The church could make donations out of their benevolent fund from time to time to the tenant if the tenant was in need and unable to obtain support from public funds.

Normally the rental income can be used for the general purposes of the church. On very rare occasions old trust documents specify alternative arrangements.

DEPOSITS

With effect from 6 April 2007 the church or letting agency will be required to join a government scheme which protects tenant's deposits. A letter must be sent to the tenant within 14 days of receiving a deposit stating:

- (a) Where the deposit is being held/which scheme.
- (b) How the landlord has complied with the scheme's initial requirements.
- (c) How the Housing Act 2004 applied to their deposit.

Churches are strongly recommended to employ letting agents who will be responsible for taking such deposits and complying with the requirements of the scheme.

At the end of the tenancy the deposit should either be returned to the tenant or retained or apportioned by agreement. Interest can either be paid to the tenant or retained as specified in the tenancy agreement.

GAS AND ELECTRICAL SAFETY CERTIFICATES

When a church decides to let its manse it is a legal requirement to undertake a survey of all the gas appliances, and the electrical appliances and circuits, before the property is occupied by a tenant. Many property letting agents will be able to do this for churches, or the church could contact their utility companies who provide the property services to arrange an Annual Landlord's Certificate of Safety.

ENERGY PERFORMANCE CERTIFICATES (EPC)

It is a legal requirement from October 2008 for all landlords who let residential properties to provide potential tenants with a report about the energy efficiency of the premises. This can be obtained through most property letting agents or, if the church prefers, can be provided by appropriately

qualified Domestic Energy Assessors (DEAs). The government has estimated the cost to be around £100 for the certificate. An EPC lasts the church for ten years and needs only be done once within this period. A further certificate will be required on expiry of the ten year period if the property is still to be let to tenants.

FINDING SUITABLE TENANTS

A property letting agency or local estate agents may have people on their books – but will probably want to charge a commission for introducing them to the church.

The final selection of a person or a family to occupy the manse is a something for which the diaconate will be responsible. The diaconate may want to arrange for the prospective tenants to be interviewed so that they can assess their suitability and to take up references.

EQUALITY ISSUES

Churches may have concerns about the way their property is used by their tenants.

Discrimination on grounds of race, gender or disability is illegal.

From March 2007 the Sexual Orientation Regulations have also made it unlawful to discriminate in the provision of goods and services on the grounds of sexual orientation. However, there is an exemption for religious organisations who may want to choose tenants for church properties. The exemption applied to qualifying organisations who may feel it is necessary to discriminate in order:

- a) To comply with the doctrine of the organisation;
- b) To avoid conflict with the strongly held religious convictions of a significant number of the religion's followers.

http://www.baptist.org.uk/news_media/latest_news/sor.html

COMPLETING FORMALITIES

Because of the complexities of residential lettings – and because the implications can be very serious indeed if things go wrong – the Baptist Union Corporation strongly recommend that all documents are prepared and completed by a professional firm of estate agents, letting agents or local solicitors.

Provided the Agreement is for an Assured Shorthold Tenancy local solicitors could also be instructed.

MANAGING THE LETTING

Once all the documents have been completed and the tenants have moved in there are certain matters for which the diaconate, as Managing Trustees, are responsible:

- Arrangements must be made for the rent to be paid on the dates on which it is due – and action taken if any payment fails to be made. It is not good stewardship to allow arrears to accrue.
- From time to time the property should be inspected to make sure that it is being properly cared for by the tenants in accordance with their obligations in the Tenancy Agreement.
- A notice – in the prescribed form – must be served on the tenants two months before the end of the term so as to bring the tenancy to an end.
- The manse must be kept in a safe condition. Regulations relating to safety of gas and electricity installations must be observed. Advice on the up to date regulations can be obtained from gas and electricity suppliers or an approved CORGI contractor or a qualified electrical contractor.

- Upholstered furniture and bedding let with the manse must satisfy modern safety standards.
- The church's insurance policy on the property must give the appropriate cover and the policy kept in force.

LONGER LETTINGS AND LETTINGS NOT AT THE MARKET RENT

There may be circumstances in which the church want to let the manse for longer than one year or allow the manse to be used by a retired minister or a Christian worker. If that is the case more stringent rules apply under the Charities Act and contact should be made with the Baptist Union Corporation who will be happy to advise the church further.

THE CORPORATION'S EXPENSES

Although all expenses incurred by the Baptist Union Corporation on behalf of a church 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 sale or purchase the church concerned makes a contribution towards our expenses.

This does not apply to short-term lettings but we always welcome any donation towards our office expenses. This means that we are free from being a charge on Home Mission – indeed we aim to contribute to the Home Mission budget each year.

CHECKLIST FOR CHURCHES - LETTING A MANSE

- Diaconate give initial consideration to proposal to let the manse.
- Consult with the Regional Minister for your area.
- Consult with the Baptist Union Corporation if contemplating letting for longer than two years, or other than an Assured Shorthold Tenancy, or less than market rent.
- Appoint contact person who communicates with the Baptist Union Corporation.
- Check requirements of Building Society or other lender if manse is mortgaged.
- Consider requirements for Special Church Members' Meeting.
- Hold Special Church Members' Meeting.
- Confirm to the Baptist Union Corporation that an appropriate agency or solicitor will act on behalf of the church in preparing the Assured Shorthold Tenancy Agreement.
- Check manse for safety, particularly that electric wiring, gas appliances and any furniture complies with safety requirements.
- Check church's insurance policy.
- Obtain advice on rent to be charged.
- When tenants are selected send full details to your agents or solicitors with a copy to the Baptist Union Corporation.
- Following completion of the documentation arrange for collection of rent, periodic inspection of the property and service of notice to bring tenancy to an end.
- Deposits to be treated in accordance with the Regulations.

Association Trust Company	Contact
Baptist Union Corporation Ltd	Baptist Union Corporation Ltd Baptist House PO Box 44 129 Broadway Didcot Oxfordshire OX11 8RT Telephone: 01235 517700
East Midlands Baptist Trust Company Ltd	The 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 International Mission Centre 24 Weoley Park Road Selly Oak Birmingham B29 6QX Telephone: 0121 472 4986
London Baptist Property Board	London Baptist Association 235 Shaftesbury Avenue London WC2H 8EP Telephone: 020 7692 5592
North West Baptist Association	Baptist Union Corporation Ltd Baptist House PO Box 44 129 Broadway Didcot Oxfordshire OX11 8RT Telephone: 01235 517700
South West Baptist Trust Corporation	South West Baptist Trust Corporation Wonford Baptist Chapel 36-38 Wonford Street Exeter Devon EX2 5DL Telephone: 01392 433533
Yorkshire Baptist Association	Baptist Union Corporation Ltd Baptist House PO Box 44 129 Broadway Didcot Oxfordshire OX11 8RT Telephone: 01235 517700
West of England Baptist Association	West of England Baptist Association The Old Forge Broom Hill Stapleton Bristol BS16 1DN Telephone: 0117 965 8828

As at Jan 2010

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 Baptist Union Corporation Limited 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 at the Baptist Union Corporation, 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 Baptist Union Corporation staff also deal with churches that are in trust with the East Midland Baptist Trust Company Limited, the North Western Baptist Association (Incorporated), and Yorkshire Baptist Association.

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 has been included.

If you have private trustees they too should be consulted as appropriate.

Contact Address and Registered Office:

The Baptist Union Corporation Ltd, Baptist House, PO Box 44, 129 Broadway, Didcot, Oxfordshire OX11 8RT England

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