

BUC GUIDELINES

B5 Hiring of Church Premises (03/2008)

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.

GENERAL

The majority of churches at one time or another allow other organisations or individuals to use the church premises. Arrangements vary enormously from very informal and unwritten understandings to a formal lease of part of the church premises. Whether or not the arrangement is recorded in writing, legal obligations arise by reason of permission being given for the use of church premises. These notes are intended to assist churches in making the most effective arrangements, bearing in mind that it is generally sound stewardship of resources for church premises to be used by others when not required by the church.

RATING LIABILITY

Many deacons are unnecessarily fearful about entering into arrangements for letting in the belief that letting fees will result in the church being subject to rating liability. Provided that the church is a registered place of worship then the church building and the halls and rooms used by the church in connection with the place of worship will not have a rateable value and therefore will not attract business rates.

The position may be different if part of the church premises was exclusively let to an outside organisation or individual because the Rating Authority may then take the view that the particular part of the premises would cease to be church premises and would be given a rateable value. In these circumstances it would be appropriate for the tenancy agreement to provide that the tenant was to be responsible for the business rates which would become payable.

THE CHURCH'S TRUST DEEDS

Questions are sometimes raised as to whether the terms of the church's trust deed allow the premises to be used by other organisations or individuals. Unless there is some special prohibition in the church's trust deed or other title deeds of the church there is no reason why the church should not allow other organisations or individuals to use premises provided this does not interfere with the church's own work.

A church's trust deed may also impact on the church's ability to hire out its premises for specific purposes. Please see the later section of these guidelines on *Unsuitable Use*.

TAXATION

Some churches believe that they must only accept 'donations' for the use of the premises for fear that in some way the church will be taxed if they receive an income from lettings. This, like the belief that

the church will become liable for business rates, is a misunderstanding. Where the church offers no other services as part of the hiring arrangements, the church, as a charity, is entitled to receive income from the use of its premises without being liable for tax.

PLANNING LEGISLATION

Unless there are some very special planning conditions affecting the church general planning law allows church premises to be used for a very wide variety of uses without the need for further planning permission. These uses are listed in the Town and Country Planning (Use Classes) Order 1987. The relevant paragraph which is D1 is set out below:

'Any use not including a residential use:

- a. For the provision of any medical or health services except the use of premises attached to the residence of the consultant or practitioner.
- b. As a creche, day nursery or day centre.
- c. For the provision of education.
- d. For the display of works of art (otherwise than for sale or hire).
- e. As a museum.
- f. As a public library or public reading room.
- g. As a public hall or exhibition hall.
- h. For, or in connection with public worship or religious instruction.'

Notes:

1. 'Day centre' is defined as meaning:

'premises which are visited during the day for social or recreational purposes, or for the purposes of rehabilitation or occupational training, at which care is also provided.'

2. 'Care' is defined as meaning:

'personal care for people in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder.'

LONG TERM LETTING

The church may wish to enter into a long term arrangement with an organisation or individual for the regular use of church premises. This can be structured as a licence provided the organisation or individual is not given exclusive possession (where, for example, the church reserves the right to allocate the organisation or individual to a different room from time to time as need be.)

One of the most usual long term arrangements entered into by a church is for a playgroup run by an outside organisation or individual. The advice of the Baptist Union Corporation should be sought on any long term or regular arrangements so that the interests of the church are properly safeguarded in an appropriate lease arrangement.

Guidance about long term letting arrangements can be found in our guidelines leaflet B11 *Churches and Leases* and C3 *Churches and Community Partnerships*.

INSURANCE

It is important that the church's Public Liability Insurance Policy gives cover for the use of its premises by outside organisations or individuals. This should cover the managing trustees of the church (usually the minister and deacons), as occupiers of the premises, if they are held legally liable for accidental bodily injury to members of the public or accidental damage to their property whilst the premises are being hired out. The Baptist Insurance Company plc is recommended to churches as it has considerable expertise in advising and issuing policies to give appropriate cover.

An additional premium may be required for regular use by outside users, particularly if the premises are used by a playgroup. Although the church are responsible for the safety of the premises, the users of the premises should be required to take responsibility for the activity carried on. For this reason in appropriate cases (for example a playgroup) the organisations or individual carrying on the activity should be required to produce evidence of their own public liability insurance cover so that should there be an injury because of the activity itself, compensation will be payable.

IT IS VERY IMPORTANT that the church checks the terms of its Public Liability Insurance Policy (and if necessary seeks confirmation from their Insurance Company) about:-

- The risks that are covered in relation to the church, its activities, buildings, church groups, their leaders and volunteers, operating as part of the church.
- Whether additional insurance is required because of the hiring arrangement.
- The implications of the hirer obtaining their own cover for their own activities on the church premises (as some insurance companies may not pay out on a policy if they think the risk is covered by an alternative policy).

The hirer should produce evidence of their own insurance. The risks will vary. There may be less risk of injury to members of the 'History Society' than a 'Badminton Club'. The managing trustees of the church will want to be satisfied that in the event of accident, injury or loss as a result of activities operating from the church that they are indemnified against any personal liability.

It is also important to ensure that the premises are safe for the intended use and this should form part of the church's health & safety policy.

UNSUITABLE USE

Difficulties and embarrassment have been occasioned in the past by a church letting premises to an organisation or individual, not fully understanding the use to which the premises are to be put. The church is in breach of contract if it cancels the use of the premises when it finds that the premises are to be used for an unsuitable purpose. For this reason organisations and individuals making application for the use of the church premises should be asked to declare the purposes for which the premises will be used.

A church will also need to bear in mind the possibility of discrimination occurring and great care must be taken to avoid any question of unlawful discrimination as part of the hiring arrangements.

Non-commercial organisations, including churches, whose purposes are to promote, practice and teach a particular belief are in certain circumstances permitted to impose restrictions on the use of premises that may otherwise amount to unlawful discrimination on the grounds of, for example, religion or sexual orientation.

A church may be permitted to restrict the use of its premises if the restriction is imposed so as:-

- a) not to conflict with the purposes of the church;
- b) to comply with the doctrines or beliefs of the church;

- c) to avoid causing offence to persons of the particular religious belief for which the premises are held; or
- d) to avoid causing conflict with the strongly held religious convictions of a significant number of the religion's followers.

A church may also impose restrictions on the hiring out of its premises in order to comply with its governing document or trust deed.

For each type of potential discrimination, the grounds for imposing restrictions on the use of premises may be slightly different. It is important, therefore, that these restrictions are exercised with care, grace, integrity and consistency and the church will need to set guidelines as to the kind of use that it will permit. For example, it would be most unwise for a church to allow its premises to be used by any political party. Similarly, it may be perfectly proper for the church to have a rule that only Christian worship is to be conducted on the church premises, but this should not be used to prevent, for example, other religious or ethnic groups from using the premises for social occasions if the premises are normally available for these purposes.

As well as having guidelines as to the kind of use that it will permit, the church may find it helpful to have an ethos statement or a statement of their faith, beliefs or doctrines within the terms and conditions of use for the hiring out of its premises. This may help in establishing the grounds for imposing any restrictions on use. The church can also make it clear that the premises cannot be used in such a way so as to cause offence to persons who hold to the church's statement of faith, beliefs or doctrines or in any way which conflicts with those beliefs. If it is relevant, it may be sensible for the church to detail any restrictions on use contained in its trust deed or governing document. All of the above may help to show how certain uses of the church's premises are genuinely unsuitable in the particular context.

Churches may find it helpful to use a workbook entitled 'Christian Ethos Audit' prepared jointly by Faith Works and the Baptist Union of Great Britain. It may help churches to formulate their ethos statement/statement of beliefs as well as their guidelines as to the circumstances in which they may decline to hire their premises to groups whose aims conflict with those of the church. This guide is available from the Baptist Union of Great Britain Publications Department at a cost of £5.00.

WHEN IS A LICENCE NOT A LICENCE?

It is important to distinguish between a licence to use the church premises (a more casual hiring arrangement where an organisation or individual is not given exclusive possession of the premises or a part of them) and a tenancy or lease. The usual arrangements for the use of a room on church premises together with, say, the toilet and kitchen facilities, is normally by way of licence and is a contractual arrangement (whether it is in writing or not) whereby the organisation or individual is given the right to use the room(s) and other facilities during defined times, the church retaining the use of the room(s) outside these times and reserving certain rights as to entry to the room(s) and the ability to vary the arrangement.

On the other hand a tenancy or lease (whether it is in writing or not) is a contractual arrangement whereby the user has exclusive right to the use of the room(s) continuously or on a regular basis for a defined period, or for a period and then subject to notice. This distinction between a licence and a lease is very important because quite apart from the possibility of rating liability where premises are the subject to a lease the organisation or person using the premises might well acquire rights as a business tenant under the terms of the Landlord and Tenant Act 1954.

If it is the church's wish to enter into a lease or tenancy the Baptist Union Corporation must be consulted so that proper advice is given. If a formal lease is entered into the Baptist Union Corporation will wish to act on behalf of the church as its Holding Trustee and consideration will need to be given to the terms of the Landlord and Tenant Act 1954 as well as compliance with the Charities Act 1993 which

makes it obligatory for proper advice to be obtained as to the value of the rent and the terms of the letting arrangement.

For a detailed explanation of the issues please refer to our guidelines leaflet B11 *Churches and Leases*.

HIRING CONDITIONS

Accompanying these guidelines is a suggested skeleton application form for use by organisations and individuals for the occasional use of the premises.

On the reverse of the application form is a set of basic hiring conditions. Each church will need to adapt the form and conditions for their own use but it is strongly recommended that the hiring out of premises is only permitted following the completion of an application form which includes acceptance of the terms and conditions of hire. To make sure that there is no doubt that the conditions apply, it is suggested that a copy of the application form, with the hiring conditions on the reverse, is sent back to the applicant with the confirmation of the booking.

In addition, it is good practice for the church to obtain written confirmation from any organisation or individual hiring church premises that it has a child protection policy and uses the Criminal Records Bureau disclosure service if that is relevant to the purposes for which the premises are going to be used.

It is also recommended that the deacons from time to time review the operation of the church letting policy and the fees for the use of the premises.

HIRING APPLICATION FORM

1 Name of organisation:

2 Description of proposed activity:

3 Dates and times required:

4 Room(s) required:

5 Name, address and telephone number of person responsible for the booking:

6 Name, address and telephone number of person supervising the activity
(if different from the person responsible for the booking):

7 In the case of activity involving children has your Organisation agreed to comply with
the Government's suggested Guidelines 'Safe from Harm'?

YES

NO

8 Is your organisation a charity?

YES

NO

9 Has your organisation used the church premises before?

YES

NO

I confirm that the hiring conditions on the reserve side of this form are accepted and I enclose a cheque for £50 being a deposit.

Signed: Date:

Confirmation of booking (to be completed by the Church Officer)

I confirm on behalf of the church that the booking as indicated on this form is accepted, subject to the hiring conditions overleaf and to the payment of the agreed fee of £

Signed: Date:

.....**BAPTIST CHURCH**
CONDITIONS FOR THE USE OF THE CHURCH PREMISES

1. The agreed fee for the use of the accommodation must be paid in advance of the hiring together with a deposit of £50, which deposit will be refunded within seven days of the hiring unless there has been any damage to the accommodation or the church's furniture and equipment for which the user is responsible and in which the church shall be entitled to retain the whole or part of the deposit as security for the cost of rectifying such damage.
2. The church retains control, possession and management of the accommodation and the user has no right to exclude the church from the premises.
3. The User is responsible for all damage (other than fair wear and tear) to the accommodation or any of the church's fixtures and fittings or equipment which is occasioned in whatever way by the use of the accommodation.
4. The accommodation may only be used by the organisation and for the purpose and during the period indicated on the application form submitted to the church.
5. The church may be entitled at any time on giving reasonable notice to the User require the User to transfer if possible to alternative or comparable space and accommodation elsewhere within the building.
6. After the use of the accommodation it must be left in a clean and tidy condition with all furniture and equipment left in the same position as at the commencement of the hiring and the hirer must ensure that all lights are turned out and all doors and windows properly secured.
7. The User must ensure that during the use of the accommodation that no person smokes and that no alcohol is supplied or consumed.
8. The User must not leave in the accommodation any equipment, furniture or articles of any kind unless by prior written agreement from the church who reserve the right to charge a separate fee for the provision of any such specified and agreed storage facilities.
9. The User agrees that the church accepts no responsibility for injury or loss to person or property arising out of the use of the accommodation apart from such injury or loss which arises from the church's responsibility for the general maintenance of the accommodation and the User will keep the church indemnified against any claims for which the church is not responsible.
10. The User has a responsibility to notify the church of any defect in the accommodation or in any of the church's furniture or other equipment in the accommodation.
11. The User will comply with the provisions of the church's Health and Safety policy and will ensure that all those using the accommodation are aware of the appropriate safety procedures.
12. The church may terminate this agreement immediately at any time if there is a breach of these conditions by the User.
13. Where premises are to be used by children, the User agrees to comply with the Government's guidelines set out in the document 'Safe from Harm'.

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
West of England Baptist Association	West of England Baptist Association The Old Forge Broom Hill Stapleton Bristol BS16 1DN Telephone: 0117 965 8828
Yorkshire Baptist Association	The Baptist Union Corporation Ltd Baptist House PO Box 44 129 Broadway Didcot Oxfordshire OX11 8RT Telephone: 01235 517700

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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