

# BUC GUIDELINES

## C2 Church Closure (01/2008)

**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.**

### FACING HARD DECISIONS

There is usually a lot of publicity and excitement surrounding the planning of a new congregation or the formation of a new church. By comparison, the closure of a Baptist church which has maintained a faithful witness and served a local community for many generations is often a quieter affair and there will be much sadness.

The reasons for closure will be varied, but they have to be faced and hard decisions must be made. Changing cultures and migrating populations can mean that what was a successful work in past years is now struggling to survive. We must affirm that God is in this situation just as much as He is leading other fellowships to launch out into new areas of mission.

Members who are facing the closure of a church are entitled to expect as much support and encouragement, if not more, as those who are starting a new work. Of primary importance is the pastoral care of the remaining members and the concern to make sure that they find a new spiritual home. Closely behind that is the need to deal correctly with all property, trust and legal matters.

### EARLY CONSULTATION

There are at least two groups who should be involved before any final decisions are taken.

- **The Regional Minister** serving in your local Association area will want to offer wise pastoral counsel. They may be the best person to chair Church Members' Meetings and guide you through the various decisions which need to be made.

Other Association staff may be able to suggest how those from other churches in the locality can offer practical help.

Sometimes closure is avoided by other churches being able to offer help. This is associating and interdependency at their best. In any event the closure of a Baptist witness is a matter of concern for all the Association churches.

It is important for everybody to understand that there can be flexibility in exploring alternative arrangements up to the time when the church members have held their final meeting and decided to close. Back-tracking after the decision has been made is difficult, if not impossible.

- **The Baptist Union Corporation Manager.** If the Baptist Union Corporation are the trustees of the church (either alone or jointly with private trustees) they will be responsible, following

closure, for the disposal of the church properties and for the distribution of the proceeds of sale (see **Ultimate Trust** below).

If your church property is in trust with one of the other Baptist Trust Corporations, please contact them for guidance.

(Churches in trust with the East Midland Baptist Trust Company or the North Western Baptist Association should still contact the Baptist Union Corporation.)

There are likely to be many legal and financial issues which need to be considered and resolved.

The Baptist Union Corporation Manager will advise you and put you in touch with professional advisers.

Remember that all these people are concerned about your church and the difficult decisions you are facing. Contact them as soon as possible.

Sometimes closure can be avoided, but this often depends on early and regular consultation. We include information about this later in this leaflet.

## **ULTIMATE TRUST**

Before we discuss in detail the decision to close it is extremely important to consider the Ultimate Trust. This is something which must be very carefully investigated **before** the church closes. If the deeds are held at Baptist House then the Baptist Union Corporation can help you by telling you about the arrangement for your particular church. If the deeds are stored with your local Baptist Association they may be able to help with queries about the Ultimate Trust.

### **WHAT IS AN 'ULTIMATE TRUST'?**

The Ultimate Trust is usually an arrangement included in the church deeds when the first property was purchased. The founders of the church would have wanted to ensure that even if the church closed the value of the building could still be used for work within the Baptist family.

In some ways an Ultimate Trust arrangement is a bit like the provisions in a Will. It contains instructions about how the assets should be distributed.

The Ultimate Trust states what is to happen to the church premises or to the proceeds of any sale after the church closes and the church premises are no longer needed.

### **WHAT KINDS OF ARRANGEMENTS WERE MADE?**

The Ultimate Trust in the deeds may provide that the proceeds of sale are to be passed to a neighbouring church, to the Baptist Building Fund, to Spurgeon's College, or another similar Baptist cause.

In some cases, it may be necessary for the Church Members' Meeting to decide. Some older deeds left the responsibility for taking this important decision to the Church Members at the Final Members' Meeting. This provision is often included in deeds prepared in the Eighteenth or Nineteenth Centuries when women had limited legal capacity and were not allowed to own land in their own name. For this reason, older deeds tend to require that only the 'male members' should decide, but it varies depending on exactly what was written down at the time.

Often, however, there will either be no Ultimate Trust or there will be one which is inadequate or is no longer capable of being put into effect. In cases like that the Baptist Union Corporation would have to apply to the Charity Commission for a Scheme to enable them to decide about the best way to use the proceeds of sale. This is time consuming and expensive and it means that an outside organisation is deciding what will happen to the money arising from the sale of a Baptist church.

If the Trust Deed contains provisions relating to closure which are absent or unsatisfactory it may be advisable for something called the Model Trusts to be adopted.

Baptist Model Trusts are a set of arrangements that apply to Baptist churches. They are authorised by an Act of Parliament called The Baptist and Congregational Trusts Act 1951.

Model Trusts contain a framework of administrative arrangements for Baptist churches. They can be very useful in updating the early arrangements set out in an old Foundation Deed. In particular, they can fill in any gaps in the legal arrangements that apply to the Ultimate Trust.

If there is no stated Ultimate Trust the members can adopt Model Trusts. This adds an 'Ultimate Trust' that enables decisions about the church's assets to be taken by the Baptist Union of Great Britain and the local Baptist Association.

This saves all the time and effort involved in applying to the Charity Commission.

The Baptist Union Corporation will be able to tell you whether the church has already adopted Model Trusts in the past and, if not, will be happy to guide you through the procedures.

It is usually helpful to adopt the Model Trusts, if at all possible, before the meeting is called to consider the formal and final resolution to close.

A formal resolution of a Church Members' Meeting is required. This is why it is essential that this matter is dealt with before the church closes. It is impossible to do so afterwards because as soon as the final meeting has been held the church is legally disbanded.

There is further discussion about Baptist Trusts and Model Trusts in the guidelines leaflet B1 *Church Trusts Model Trusts and Property Trustees*.

If the Model Trusts are adopted and decisions are taken by the Baptist Union and Association the proceeds will usually be divided equally between the two organisations (the 50/50 Guiding Principle) with the Union allocating 90% of its share to the Baptist Strategy Building Scheme and the remaining 10% to the Baptist Union Loan Fund.

If the Foundation Deeds include an Ultimate Trust to be as the Baptist Union shall direct the proceeds will usually be divided as to 60% to the Union and 40% to the Association (60/40 Guiding Principle).

## **PRIVATE TRUSTEES**

Another matter to be considered is the position of any private property trustees (also known as Custodian Trustees or Holding Trustees) who may be named jointly with the Baptist Union Corporation on the church title deeds.

If any of the private trustees have died the Baptist Union Corporation must be notified including sending us a copy of the death certificate (if available) or as much information as possible about the death and place of death.

At the same time the Baptist Union Corporation must be given the present addresses and telephone numbers of the remaining private trustees.

This may be a good time to ask the private trustees whether they wish to continue as trustees or whether they would prefer to resign and leave the Baptist Union Corporation to deal with the complex matters relating to the closure of the church and the sale of the premises. If they prefer to resign they should send a letter to that effect to the Baptist Union Corporation.

If the church has only private property trustees you should still contact the local regional association. The Baptist Union Corporation may be able to support them and the church especially if they wish to step aside as part of the closure process.

## ALTERNATIVES TO CLOSURE

It is always possible that, upon reflection and with the advice of others, it will be decided that closure is neither the only nor indeed the best option.

After consultation with the Association and the Corporation other options may emerge.

Consideration can be given to an Amalgamation with another nearby Baptist church or entering into a Local Ecumenical Partnership with Christian churches of other denominations in the neighbourhood.

Some guidelines leaflets have been prepared:

C4                    *Church Amalgamation*

C5                    *Sharing Agreements*

These legal arrangements need careful planning and will be almost impossible to arrange if the final meeting has already been held.

## MAKING THE DECISION

The decision finally to close a Baptist church will be taken by a Church Members' Meeting.

If the Model Trusts have been adopted the Association, acting together with the Union, will have the power to close a church if the church is very weak but this is a power which is rarely exercised. It is usually the members who decide.

Advance notice of the Church Members' Meeting must be given in the usual way. For the reasons already noted, the Baptist Union Manager and Regional Minister must be told.

Because of the importance of the matter it is advisable for the meeting to be 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.

The following matters also need to be dealt with at the final Church Members' Meeting (or during the series of meetings leading up to the final meeting).

- **Give thanks to God** for the faithful witness down the years by the members of the church, past and present, and resolve that a final service of worship will be held on an agreed date.
- **Ultimate Trust/Model Trusts.** If necessary, resolve how the proceeds of sale of the premises are to be used. If that is a matter for the church members to decide they need to take and record a clear decision. If not it will be helpful to resolve to adopt the Model Trusts if this has not already been done.
- **Church Properties.** Resolve to ask the Property Trustees to deal with the church properties in accordance with the Ultimate Trust. Decide, however, who locally will be the key holder; looking after the properties until agents have been appointed or they have been sold. Church members may help by being responsible for security, maintenance and the payment of outgoings.
- **Furnishings and Contents.** Decide how these should be dealt with, paying particular regard to items which have been donated to the church or have sentimental significance, such as communion furnishings, etc.

**Remember, if the church buildings are listed no alterations can be made (including the removal of fixings, fittings and furnishings) which affect the character of the building (see the note on Listed Buildings below).**

- **Creating Records.** If your church is not listed you may still want to create a record of your property, the church members and your activities. The local Council will have an archive department who will be pleased to receive information about your church including photographs. If you want technical guidance about creating a photographic record please refer to our guidelines leaflet LB8 *Photographic Recording*. This is about photographing the building but people and activities are significant too.
- **Church Funds.** The use of the general funds of the church is a matter for the Church Members' Meeting subject, however, to the right of the Baptist Union Corporation to call upon church funds to meet any expenses prior to the premises being sold.

For this reason before any resolutions dealing with general funds are passed the Baptist Union Corporation Manager must be consulted.

In deciding how to use any spare funds please remember the needs of Home Mission and the Baptist Missionary Society as well as other Baptist causes.

If possible, keep a balance in hand to deal with outgoings, such as maintenance costs, until the church properties have been sold. If there is nobody who can deal with this administration it may be necessary for funds to be released to be held by the Corporation or local Baptist Association pending the sale. Apart from dealing with these final payments the bank accounts will need to be closed and accounts prepared.

- **Confirmation of Appointment of Treasurer and Secretary.** Many churches have a Secretary and Treasurer. If they are able, it is often these people who will take responsibility for working with the Baptist Union Corporation on the outstanding practical matters. It is helpful if the members confirm the appointment of Secretary and Treasurer, to avoid uncertainty.
- **Burial Ground.** If there is a burial ground it is important that the church members pass a resolution to close the burial ground and to decline to accept any new right to interment should be formally granted. Some spaces may already be reserved for future use and the church should pass on the details of reserved spaces where this is known.

There may also be Trust Funds or other special funds which will need to be dealt with in consultation with the Baptist Union Corporation.

## **INFORMATION NEEDED BY THE BAPTIST UNION CORPORATION**

By the time the final Church Members' Meeting has been held you will have already been in contact with the Baptist Union Corporation.

Immediately after the final Church Members' Meeting write to the Baptist Union Corporation and make sure they have the following information:

- **Minutes and Resolutions.** A copy of the minutes and any resolutions passed at the Church Members' Meeting.
- **Properties.** Details of all church properties (Chapel, Hall, Burial Ground, Manse, etc) and a note of the name, address and day-time telephone number of the key holder. Give details of insurances. If there are private trustees acting jointly with the Baptist Union Corporation supply their full names, current addresses and day-time telephone numbers. We will write to you with a long list of the information we need, but once this is completed we will write to all the regular contacts to tell them the church has closed.

- **Fittings.** If some fittings are to be passed to other churches but have not yet been removed, please ensure this information is passed to the Baptist Union Corporation.
- **Registrar.** A note of the name and address of the local Superintendent Registrar. This is needed so that the Baptist Union Corporation can formally advise the Registrar that the church has closed as a place of worship.
- **Finances.** Details of financial arrangements which have been made with a note of the name and address of the Church Treasurer who will be finalising the church accounts and eventually closing the bank account.
- **Services.** We will ask for details of insurances, and the suppliers of gas, electricity and water.
- **Burials.** If there is a burial ground please note guidelines leaflet C1 *Burial Grounds*. If there is already a list of burials this should be copied. One copy should be sent to the Baptist Union Corporation and one copy should be sent to the Local Authority Archive. If the church employs somebody to maintain the burial ground, please provide contact details.

## SELLING THE BUILDINGS

The Baptist Union Corporation will give notice to the Superintendent Registrar that the church premises are no longer a Registered Place of Worship.

They will then deal with the sale of the premises, in conjunction with any remaining private trustees; taking the professional advice required by the Charities Act 1993 (see guidelines leaflet B3 *Selling Church Land or Premises*).

The Baptist Union Corporation will usually take the initiative in organising the sale of the buildings. Where there are private trustees they will be consulted. However, it would be unusual for there to be detailed discussions about the disposal of the building with the church members after the church had closed. This is substantially the responsibility of the property trustee.

Estate agents and surveyors will need to be involved. They will evaluate the condition of the property and consider how much it might be worth. It may be necessary to seek planning permission for change of use before the property is marketed if the best possible price is to be achieved.

Wherever possible we look sympathetically at requests from other church groups or charities when disposing of the property. We would always expect to check with the local Baptist Association whether they had any use for the property before it was sold. However, the overriding responsibility for a group of trustees is to ensure that the property is sold for the best possible price so that the beneficiary nominated under the Ultimate Trust can benefit from the release of funds.

When it is time for the sale to be completed we will need to remind you that all the keys must be handed over to the estate agent, if this has not already happened. It is obviously not appropriate for church members to retain keys after the property has been sold.

It may be many months or even a few years before the property sale has been completed, but once this has happened the net proceeds will be distributed to the beneficiary under the Ultimate Trust.

## LISTED BUILDINGS

If any of the church buildings are listed, or you think they may be listed, please refer to guidelines leaflets:

- LB1 *Introducing the Listed Buildings Advisory Committee*
- LB2 *Applying to the Listed Buildings Advisory Committee*
- LB3 *Advising Churches on Applications to the Listed Buildings Advisory Committee*
- LB5 *Looking After Your Church Buildings*

Although we will need your help in tidying the church and removing items that are no longer needed, such as hymn books, it is important that fixtures and fittings in a listed building are not removed.

It is very important that a suitable photographic record is kept, particularly where a building is listed. However, as well as details of the historic fabric it would be good to collate a set of photographs about the church and its activities. It may be appropriate to take photographs of the last group of church members, and possibly photographs of the final Thanksgiving Service.

However, there are people who are interested in the historic fabric of the church and so some good quality photographs of the building will be very helpful as well.

English Heritage have given guidance about creating a photographic record and you may also be able to get some help from your Local Authority Conservation Officer or Archivist.

Our guidelines leaflet LB8 *Photographic Recording* may be of help to you. Please note that in photographing a building, black and white photographs are often clearer than coloured ones.

If your building is listed you may find that local historical societies are interested in your building and may offer to help in preparing a set of photographs.

If you find it impossible to arrange this, the Baptist Union Corporation can organise this.

## **CHURCH RECORDS**

Marriage Registers must be sent to the local Superintendent Registrar as soon as possible after closure of the church.

Church Minute Books and other important records will need to be preserved for future reference. They may be sent, by prior arrangement, to your Local Authority Archive or Record Office or The Angus Library at Regent's Park College, Pusey Street, Oxford, OX1 2LB, or to your Association Archivist.

In any event please send to the Angus Library and the Baptist Union Corporation a note of where you place these important records.

If you send items to your local Record Office or Archive you are advised to clarify whether they will be deposited with open access, so that anyone who wishes to do so will be allowed to see them, or whether viewing will be only by permission of the local Baptist Association or Baptist Union Corporation. Remember that records of closed churches may include sensitive personal or financial information.

If you do not know the address of your local Record Office we may have details here at Baptist House. Helpful information is also available from the Baptist Historical Society who can be contacted by correspondence via Baptist House.

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

Telephone **01235 517700** facsimile **01235 517715** e-mail **buc.corp@baptist.org.uk DX 40852 Didcot**

A Company Limited by Guarantee. Registered in England No 32734. Registered Charity No 249635