

BUC GUIDELINES

C21 Churches and Land Registration (03/2006)

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.

REGISTERED LAND

The Land Registration Act 1925 provided for a system of land registration in England and Wales. A government department was formed called Her Majesty's Land Registry. They received evidence as to the ownership of land and issued an official government certificate, called a Land Certificate. This became the title or ownership document and summarised the details of the size of the plot, the rights benefiting the land, the name of the proprietor, and any obligations that attached to the land. The system was introduced on a phased basis.

The Land Registry is now a government agency and most land in England and Wales is now registered with them. Each parcel of land has its own title number and the work is now substantially computerised.

It is now compulsory to register legal titles with the Land Registry whenever a purchase, mortgage, or other disposal takes place. This process has continued for so long that legal training emphasises registered land over the increasingly rare and 'obscure' arrangements for unregistered titles.

VOLUNTARY REGISTRATION

Until recently it was not easy to achieve a voluntary registration of titles. The Land Registry was fully occupied with work so encouraging the registration of unregistered land was not a priority. The situation has changed. The Land Registry has set a target of achieving registration of all land in England and Wales by 2013. Staff have been appointed with the specific role of achieving this goal.

CHURCHES AND REGISTERED LAND

It has already been mentioned that land becomes subject to the registration process whenever it is bought, sold, mortgaged, leased or transferred after a death. Most churches own land that has been used for generations without any change of ownership so there has been no need for them to register their titles with the Land Registry.

Evidence of the ownership of church land is traced by a series of documents, some very old, setting out the original transfer to the church trustees and subsequent changes of trustee. These titles can be complicated to understand and on dealing with individual chapel and land sales there are sometimes difficulties in identifying the land and the current trustees. Where the Baptist Union Corporation have been holding trustees for many years the position is often clearer, but there are still difficulties on occasions.

At present there is no doubt that an unregistered title where documents tracing the use and legal

ownership of the land can be produced is valid.

However, increasingly the prevailing pattern of land ownership is Registered Land and there are many benefits of this. A registered title is guaranteed by the state, setting out the description of the property, the owner and what rights and obligations affect it.

Once registered there is no longer any responsibility to store deeds relating to the property (except where the deeds show additional information not on the Register, such as trust details). Registration should simplify future conveyancing or property transactions, avoiding delays and reducing future legal fees.

In recent years the Land Registry rules on possessory title have changed. It is now preferable for land to be registered in order to have full protection against a claim from an unscrupulous person that they have obtained adverse possession (a possessory title or squatter's rights) over the land.

CHARITY COMMISSION GUIDANCE

The Land Registry are promoting voluntary registrations. Recent Charity Commission guidance has suggested that charity trustees should carefully consider whether retaining their title in an unregistered form is appropriate. The purpose of the guidance is to deliver a message to charity trustees that matches the encouragement being offered by the Land Registry and help charity trustees and trust corporations in reaching decisions about expenditure on this previously 'unnecessary' area of work.

THE PROBLEM FOR CHURCHES

Individual churches could be faced with considerable expense in registering their titles voluntarily. This is partly because it is usual for each individual title to be investigated by a solicitor before the papers are sent to the Land Registry. Obviously this will involve the payment of legal costs.

The most straightforward matters are simply a question of filling in a few forms, listing the title documents and checking that there is a clear record of ownership from first purchase to the present arrangements. Few church titles are as simple as this.

Preparing detailed applications for the registration of titles is not something that is undertaken within the Baptist Union Corporation office at Baptist House, it has normally been dealt with by solicitors.

Another problem for churches making their own individual application for voluntary registration is the fact that the Land Registry will base its fees on the value of the site. For a city centre church on a valuable site this can be another difficulty.

BENEFITS FOR CHURCHES

When land is registered the Land Registry will maintain a central computer record. This will include clearly defining the land owned on behalf of the church as well as the name and contact details for the property owner.

Many church deeds are very old and sadly some are deteriorating over time. These parchment documents which are handwritten can be very difficult to read and interpret. The Land Registry will extract all the relevant details from the older deeds and include a summary of the rights and obligations affecting the church site in a modern format. This will enable the information to be accessed by the church more easily.

An up to date plan of the land owned by the church will be issued. This is helpful when discussing boundary issues with neighbours.

Many people believe, quite, wrongly that land that is not registered is actually vacant land. This is because the predominant system is now the registered system. It is very easy for unscrupulous people, or those who simply misunderstand the system to assume that unregistered land can simply be claimed by anyone.

Where someone claims some form of 'squatter's rights' (officially known as Adverse Possession) it can be difficult to establish the true boundary. Many hours of time and a lot of money can be wasted.

A registered title should be a clear title, a complete title, and a title that is easily understood.

The records are computerised and a matter of public record so copies can be requested from the Land Registry on payment of a small fee.

LOCAL KNOWLEDGE

Ideally all church deeds should describe land clearly and include a plan drawn to a prescribed scale. Unfortunately this is often not the case and an up to date plan and additional information based on local knowledge may need to be provided.

In the nineteenth century property descriptions often referred to physical features such as adjoining cottages or the fact that land was used by a particular person. Many physical features no longer exist and knowledge as to who owned adjoining land was lost many years ago.

However, local knowledge is important.

The church's ownership of land is fundamentally linked to the documentary evidence (the information in the deeds) and details of the land actually used and occupied by a church.

If there is a large plot but the church has for many years only used a small portion of the land with the spare land being taken over by neighbours it will be almost impossible to recover the land even if an application for registration is made.

However, in contrast, the church may have been using an area of land that is larger than the land described in the title documents. They may have acquired rights over neighbours' land and taken possession of it. These rights to use land are sometimes called 'squatter's rights' (or more formally possessory title or obtaining adverse possession).

If your church has used some extra land informally for many years it might be possible to achieve registration of that portion of the site as well. If you think you may have acquired land in this way it will be necessary to highlight this fact before applying for registration of title.

If there are any unusual rights of access or shared facilities these could also be mentioned at this stage. It is possible that the Land Registry will be able to note the rights actually used as well as those referred to in the title deeds. In any case a 'basic registration' of the church's title can be updated if additional evidence is produced later.

This is a complicated area but local knowledge is important.

If there is something unusual about your church site - please say so.

STATUTORY DECLARATIONS

Local knowledge needs to be preserved. Older members of your church may have information about the exact boundaries of your church site, shared access routes and shared drainage systems that is vital. The information can be preserved for the future if a formal document called a Statutory Declaration is prepared.

A Statutory Declaration would normally be prepared by a Solicitor, Licensed Conveyancer or Legal Executive. It would contain an up-to-date plan to confirm the boundaries and a description of the formal and informal arrangements that affect the property.

A Statutory Declaration is also necessary if deeds have been lost or extra land has been acquired informally. In these circumstances long term knowledge of the site is vital.

LOST DEEDS

If deeds have been lost a Voluntary Registration is a very useful way to overcome the problem.

FUTURE TRANSACTIONS

Once registration has been achieved the legal costs associated with future legal transactions involving the church should be reduced because the paperwork is easier to process. There will be no need to investigate the older handwritten title documents.

WHAT HAPPENS TO THE OLD DEEDS?

After registration has been achieved many of the older church documents will no longer be needed as evidence for property ownership. It may be possible to return these to the church, or the County Archivist for local storage, particularly if they are of historic interest.

Some deeds will need to be retained at the Corporation office particularly if they contain details of the trust arrangements for the church. Many founders of Baptist churches specified in the purchase documents the way the church should be organised as well as recording the transfer of land to the first named trustees.

We recommend that older deeds are stored in an appropriate library or County Archive office.

Some churches are of particular historic interest and may be invited to deposit their papers with a special library in Oxford called the Angus library which keeps records for the Baptist denomination.

In many cases the documents are of mainly local interest and the County Archivist would probably be happy to advise as to storage and may be keen to receive the documents and store them on behalf of the church. This would mean the documents were stored in the optimum conditions and remain available to the general public for future research.

CHARITY TRUSTEES - RESPONSIBILITIES

Charity trustees are responsible for the protection of their charity's assets. Careful consideration must be given to the registration of all land belonging to the charity - usually the local Baptist church.

We recommend that churches take action to seek registration of their church property, certainly before 2013 - but read on, we can help with this.

2013 - A TARGET DATE

The Land Registry are hoping that all land will be registered by 2013.

We anticipate that land that is not formally registered in 2013 may have a less secure title. This is simply another encouragement for land owners to take action to ensure that their property is registered correctly.

SHOULD WE REGISTER OUR CHURCH LAND?

Individual churches will need to check with the Baptist Union Corporation (or their own trustees) as to whether or not their land is already registered.

Information about the advantages of registration can be found on the Land Registry website, particularly

www.landregistry.gov.uk/assets/library/documents/public_guide_008.pdf

Or to find the details by another route go to Land Registry Home Page

www.landregistry.gov.uk

Click Forms and Publications

Select Leaflets

Select Public Guides

Select, from the list of publications, PG008 "Registering Title to Land - The Characteristics and Advantages"

APPLYING FOR REGISTRATION

The Land Registry have offered a special arrangement to the Baptist Union Corporation.

The Corporation will be writing to churches on a phased basis once the scheme is in operation.

Churches will have a choice, participating in the standard arrangements or instructing a solicitor to advise and complete the paperwork.

However, ignoring registration is not an option, since it is necessary for churches, and the Baptist Union Corporation, to keep 'in step' with current property law and practice, and to ensure church assets are properly records and protected.

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
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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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