

## Guideline Leaflet PC08: Buying Land or Premises for a Church

A church may decide to buy church land or premises other than a manse to be used by their minister, or residential property as an investment or to accommodate another worker. This leaflet explains the practical and legal issues involved.

This Guideline Leaflet is regularly reviewed and updated. To ensure that you are using the most up to date version, please download the leaflet from the BUGB website at [www.baptist.org.uk/resources](http://www.baptist.org.uk/resources)

The date on which the leaflet was last updated can be found on the download page.

**IMPORTANT NOTICE:** This Guidelines Leaflet makes reference to the Baptist Union Loan Fund which is operated by the Baptist Union Corporation Ltd. Churches should be aware that the Baptist Union Corporation Ltd is only willing to enter into a loan that is a relevant credit agreement (as defined by the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005) as lender for the purposes of the business of a church (or, if the church is unincorporated, the business of the church trustees) and not for any other purpose.

(Whilst the phrase 'the purposes of a business' may not sit easily with many churches we have been advised that the term 'business' has a wide definition and includes 'anything which is an occupation or duty that requires attention'. Therefore, the view has been taken that a church could be acting as a business in this context).



# PC08: Buying Land or Premises for a Church

**These notes are offered as guidelines by the Legal and Operations Team to provide information for Baptist churches.**

**The legal services undertaken by the Legal & Operations Team of the Baptist Union of Great Britain are carried out and/or supervised by a Solicitor who is authorised and regulated by the Solicitors Regulation Authority. Regulatory Information is available here:**

[L17 Legal and Operations Team – Regulatory Information](#)

**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 BUY

A church may decide to buy land or premises for a variety of reasons. It may be that a site is being acquired on which to build new premises – either because the church is relocating from elsewhere or because the church has never before had their own buildings. On the other hand the church may be purchasing additional property adjacent or near to their present premises because they need extra accommodation for their growing work in the community. Whatever the reason, it will first be discussed by the Charity Trustees (usually the minister, deacons and elders, or Leadership Team).

Careful consideration must be given to the suitability of the land or the premises – and particular attention paid to planning requirements and such matters as car parking facilities. Early discussion with the local planning authority is strongly recommended.

The financial cost must be considered. It pays to have some idea of property values in the area and work out how much money will be available – from the sale of other property (if applicable), from cash resources, or from borrowing. Don't forget to take into account fees for a surveyor, a solicitor and the cost of decorating, adapting or repairing a building. There is no stamp duty payable on the purchase of land or premises for a church.

The Charity Trustees (usually the minister, deacons and elders, or Leadership Team) 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 what the local church Constitution (or other governing document) requires in your church.

It is usually best if the members resolve in principle to purchase the land or premises, and, if necessary, to borrow part of the purchase price, and leave it to the Charity Trustees (diaconate, Leadership Team) to settle the details and go ahead with the purchase. The members may want to fix a ceiling figure for the purchase and other expenditure (including how much is to be borrowed) but if too much detail has to be referred to members' meetings the process will be delayed and frustration caused to potential sellers as well as to the church.

If the church wishes the Baptist Union Corporation to be its holding trustees for the property the Special Church Members' Meeting should also resolve that the Baptist Union Corporation be asked to hold the property as trustee. When the Baptist Union Corporation holds a new property for a church this will usually be on the up to date Model Trusts – see Guidelines Leaflets T01 *Baptist Trusts – Beginning and Patterns*, T02 *Modern Model Trusts*, T03 *Appointing Property Trustees – Baptist Trust Corporations* and TC07 *Baptist Trusts for Churches 2003*. Consequently, the church special meeting should also consider resolving that the land be held on the current model trusts. If the church are also selling property please refer to Guidelines Leaflet PC09 *Selling Church Land or Premises*.

A copy of the resolution(s) of the Special Church Members' Meeting should be sent to the Baptist Union Corporation with as much detail as possible about the proposed purchase and how it will be financed and with a note of the name, address and daytime telephone number of the contact person.

## **CHECKING THE PROPERTY**

When land or premises has been found which seems suitable how can you make sure that it is the right property for the church and that there are no potential problems with it?

The Baptist Union Corporation require that when land or premises are to be taken in trust by them a professional survey and valuation is provided by a surveyor with the qualifications FRICS or MRICS. If an existing building is being purchased it will probably be wise to obtain a full structural survey. Many larger Estate Agents will have a qualified surveyor on their staff who will be happy to discuss the need for a surveyor and valuation with you and tell you how much it will cost. The surveyor should have no connection with the seller or the selling agents.

When the survey and valuation is received read it carefully. It will usually run to several pages but at the end will be a helpful summary and, in the case of a building, the surveyor will tell you what, in the surveyor's professional opinion, the property is worth and how much it is likely to cost to put it in good order. You should send a copy of the survey to the Baptist Union Corporation.

## **AGREEING THE PRICE**

The seller and the Estate Agents acting for the seller will have stated how much they want for the land or premises. You will probably have indicated a willingness to buy at that price – or at a lower price. Make sure that any offer, whether made verbally or in writing, is 'subject to contract, survey and valuation'.

When you have received and considered the survey and valuation you are in a position to make a firm offer which will now only be 'subject to contract'. In doing so bear in mind that you are stewards of the church charity's assets and that it is not good stewardship to pay more than property is worth. Consider the value indicated by the surveyor and also the potential expenditure.

Be clear about what is included in the purchase price – particularly when you are buying a building. You will almost certainly not have the benefit of any guarantees for any items included in the sale so you may want to check that everything is working properly. It would be wise to arrange for electrical systems and central heating systems to be checked by a qualified engineer. This is especially important if the property has been empty for some time.

If you are buying a site on which to construct new buildings or if you plan to carry out alterations to the buildings you are buying please refer to Guidelines Leaflet PC04 *Redeveloping or Altering Church Premises*.

## **FUNDING THE PURCHASE**

If a church needs a loan, the Baptist Union Corporation operates the Baptist Union Loan Fund which may be able to help – please see our guidelines leaflets M01 *Loans to Churches* – please also refer to the important notice on the front sheet of this leaflet.

Alternatively you may look to a bank for financial assistance. You may have difficulty, however, with most high street banks who are not experienced in the complexities of property being bought by a church, where the legal ownership will be with a Trust Corporation and where the repayment of the mortgage will be by the church. We will do our best to help if clarification is needed by the lender.

## AUCTIONS – BUYING AT AUCTION

Where a church is considering purchasing a property at Auction it is very important that they seek advice from the Baptist Union Corporation (or their Regional Baptist Association) as early as possible. They may have identified a suitable property, and be keen to purchase it, possibly with the hope of changing the design or redeveloping the premises later.

An Auction process contrasts with the normal conveyancing (purchase) process because once a bid is made and accepted the contract is legally binding. There is no opportunity to withdraw later on if the property is found to be in poor condition, or there are problems with the legal title, or the church is not able to use the property for the purpose that was intended.

It is vital that checks are made on the property and the information contained in the legal pack before attending the Auction and making a bid.

The following steps need to be taken:-

- 1 The church will need to obtain a full survey report and valuation.
- 2 The church will need to identify the money that they have available to spend.
- 3 The church will need to ensure that they have carefully considered the amount they are prepared to bid at the Auction, and authorise one, or preferably two, people to offer bids on behalf of the church. They could appoint two members, with appropriate experience, two charity trustees, or ask a local estate agent/surveyor to attend the Auction on their behalf.
- 4 It is very important that the church understands the financial limit beyond which they are not prepared to bid.
- 5 Obtain (preferably electronic) copies of the full information pack relating to the Auction.
- 6 That they will need to obtain a pre-Auction legal report from our solicitors Anthony Collins Solicitors LLP, Birmingham, since it will not be easy to rectify defects in the title or problems with the sale terms later. A Baptist Trust Company will only take a property into trust if the title is clear of problems.
- 7 That they will need to be in a position to explain to the Auctioneer, before the Auction, that any clause in the contract specifying that the seller 'cannot be required to transfer the property to anyone other than the buyer' will, if the church is successful, need to be amended. It is likely that the transfer will be taken in the name of one of the Baptist Trust Companies, even though the contract will have been entered into by the church.
- 8 The church needs to be ready to pay a 10% deposit at the Auction, at the time of signing the contract, if their bid is successful.
- 9 The church needs to decide in advance who is able to sign the contract.
- 10 The church needs to understand that some contracts will require them to meet the seller's legal costs and may have to pay a buyer's premium at the Auction in addition to the purchase price.
- 11 The church needs to understand any restrictive covenants, easements, obligations, leases or tenancies that apply to the property.
- 12 Is it possible to use the property for the purpose intended by the church? If not, can Planning Permission be obtained?
- 13 The church needs to understand the permitted use for the property.

- 14 The church must check for any unusual or onerous replies on the local authority search. This is a standard list of questions about the property and could reveal that it is a listed building, or that a road widening scheme is planned, or other unexpected information or proposals.
- 15 There will be a fixed completion date so as well as having the deposit available, the balance of funds need to be available so that the money can be released in time for completion.
- 16 The church members meeting will need to have agreed to the purchase and authorise the Charity Trustees to make the necessary arrangements. If a Baptist Trust Company is to hold the property as a trustee the church would usually include a request for the appropriate Baptist Trust Company to accept trusteeship of the property on the basis of the Baptist Trusts for Churches 2003.

## **TRUSTEESHIP – PROPERTY OWNERSHIP - AUCTIONS**

If the intention is for a Baptist Trust Company to hold the title of the property at the Land Registry as a trustee it is important that the title is acceptable, before going to the Auction. Otherwise the Trust Company will be in difficulty accepting trusteeship of the premises. Where Trust Funds are being used to effect the purchase, the alternative of appointing private trustees to overcome any difficulty with the title will generally not work, since the trustees of the funds will have to be satisfied that they are to be used in buying an appropriate investment before the funds are released. Proper preparation is vital.

## **APPOINTING A SOLICITOR**

In all property matters a solicitor will be needed. (Please note that the legal team at the Baptist Union of Great Britain cannot act on behalf of a church in relation to a property transaction. Any work that we carry out in connection with such a matter will be on behalf of the property trustee, the Baptist Union Corporation Ltd, rather than for the church).

The firm of solicitors who act for the Baptist Union Corporation Limited are:

Anthony Collins Solicitors LLP  
134 Edmund Street  
Birmingham  
B3 2ES

Tel: 0121 200 3242  
Fax: 0121 212 7442

DX 13055 Birmingham 1

[www.anthonycollins.com](http://www.anthonycollins.com)

Email: [dominic.curran@anthonycollins.com](mailto:dominic.curran@anthonycollins.com). Please make initial contact with Dominic Curran.

All their staff are committed to working with us and for you in a way that reflects our shared Christian values and Baptist ethos. This firm of solicitors has experience in dealing with churches and the special trust arrangements that are required for church property.

The legal costs associated with your property transaction will be payable by the church, not the Baptist Union Corporation Limited. If you decide to ask Anthony Collins Solicitors LLP to do the work this may help avoid any misunderstandings or delays. They are familiar with our requirements.

At the start of a transaction or piece of work they will where possible give a formal estimate of the forecast costs and expenses. They will ask your church to formally confirm details of the work you are asking them to undertake and that you understand the arrangements for the payment of the legal costs. These estimates and instruction letters will be quite formal. This is because they need to comply with the requirements for all solicitors set by The Solicitors Regulation Authority.

If the work becomes more complicated than was originally anticipated then they will tell you as this may affect the forecast costs. You should not be presented with a larger bill than you are expecting.

Sometimes a church will know a local solicitor they wish to instruct to act for them in a property transaction. Please remember that there are additional requirements in acting for a Baptist church that is governed by the various Charities Acts and where a trust corporation holds legal title. You should ensure that the solicitor you have chosen has experience in dealing with conveyancing transactions of this type.

We will provide as much helpful information as possible to a local solicitor but Anthony Collins Solicitors LLP will still act for the Baptist Union Corporation Limited. The Baptist Union Corporation Limited will need its own external solicitors to approve documents that are to be signed by the Baptist Union Corporation Limited. Any costs associated with our solicitors involvement in a transaction are payable by the church.

The solicitors will guide you through the legal procedures involved in the purchase. They will carry out searches and preliminary enquiries and make sure that finance is available before contracts are exchanged. They will, where appropriate, remind you about insurance which must be arranged before exchange of Contracts. The Baptist Union Corporation recommend that insurance is arranged with the Baptist Insurance Company Plc. When the preliminary work has been done the Solicitors will send a report to the contact person at the church and also to the Baptist Union Corporation in preparation for the signing of the contract on behalf of the Baptist Union Corporation as Holding Trustees for the church.

The contact person will be asked to confirm that it is in order for the Contract to be signed.

Before contracts are exchanged – the point at which the seller and the church are legally committed to proceed – a date for completion of the purchase will be fixed. This will be the date on which the property is available to the church and the keys will be released by the Estate Agents when the Solicitors acting for the seller of the property have received the purchase money.

Do not forget that you will need to arrange for services like electricity and water to be connected and new arrangements made for the payment of bills.

## **MANAGING THE PROPERTY**

After the land or buildings has been purchased ownership by the Baptist Union Corporation – as Holding Trustees for the church – and any mortgage on the property will be registered at the Land Registry by the solicitors. When that has been done the title deeds will be sent to the Baptist Union Corporation, or if there is a mortgage to the lender.

Copies of the entries at the Land Registry will be sent to the contact person at the church. These are an important record of the ownership and should be carefully filed with the church papers and records.

Although the Baptist Union Corporation will be the Holding Trustees of the property the local church is the Charity Trustee and will be responsible for all the day-to-day matters.

As already indicated the Baptist Union Corporation should be consulted if building work or alterations are proposed – see Guidelines Leaflet PC04 *Redeveloping or Altering Church Premises*.

## **REGISTERING BUILDING AS A PLACE OF WORSHIP AND WEDDINGS**

If you buy a new building to use as a place of worship or build a new building on vacant land you will need to contact the local Registrar's Office. Places of Worship need to be registered, and this will enable the church to benefit from allowances on rates.

If you plan to use the building as a place where wedding ceremonies will be conducted, again the Registrar's Office need to be told, and the appropriate procedures followed.

## **THE CORPORATION'S EXPENSES**

Although all outgoings incurred by the Baptist Union Corporation on behalf of the 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. However, when we are involved in a property transaction we invite the church to make a voluntary contribution towards our expenses.

This means that we are free from being a charge on Home Mission and we aim to contribute to the Home Mission budget each year. We normally request churches to make the following contribution towards our expenses.

- When property is sold or purchased on behalf of a church a contribution of up to 0.5% of the capital cost.
- When there is a simultaneous sale and purchase a contribution of up to 0.375% of the combined capital cost.



| Association Trust Company   | Contact  |
|---|--|
| <b>Baptist Union Corporation Ltd<br/>East Midland Baptist Trust Company Ltd</b> | Baptist Union Corporation Ltd<br>Baptist House PO Box 44<br>129 Broadway Didcot Oxfordshire OX11 8RT<br>Telephone: 01235 517700                      |
| <b>Heart of England Baptist Association</b>                                     | Heart of England Baptist Association<br>BMS Birmingham<br>24 Weoley Park Road<br>Selly Oak<br>Birmingham B29 6QX<br>Telephone: 0121 472 4986         |
| <b>London Baptist Property Board</b>  | London Baptist Association<br>Unit C2<br>15 Dock Street<br>London E1 8JN<br>Telephone: 020 7692 5592   |
| <b>Yorkshire Baptist Association</b>  | 17-19 York Place<br>Leeds LS1 2EZ<br>Telephone: 0113 278 4954  |
| <b>West of England Baptist Trust Company Ltd</b>                                | West of England Baptist Trust Company Ltd<br>Little Stoke Baptist Church<br>Kingsway<br>Little Stoke<br>Bristol BS34 6JW<br>Telephone: 0117 965 8828 |

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 Legal and Operations Team 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 in the Legal and Operations Team 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 Legal and Operations Team also support churches that are in trust with the East Midland Baptist Trust Company Limited.

**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 is provided above. If you have private trustees they too should be consulted as appropriate.**

**Contact Address and Registered Office:**

Support Services Team, Baptist Union of Great Britain, Baptist House, PO Box 44,  
 129 Broadway, Didcot OX11 8RT  
 Tel: 01235 517700 Fax: 01235 517715 Email: [legal.ops@baptist.org.uk](mailto:legal.ops@baptist.org.uk)  
 Website: [www.baptist.org.uk](http://www.baptist.org.uk) Registered CIO with Charity Number: 1181392  
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