

Guideline Leaflet PM01: Buying a Manse

A church may purchase a manse for their minister. They will sometimes buy residential property as an investment or to accommodate other workers. This leaflet explains the practical issues to be considered and the process churches will need to follow.

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

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).

PM01: Buying a Manse

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 usually decides to buy a manse because a new minister is coming or because the present manse is no longer suitable. Whatever the reason it will first be discussed by the local church, usually by the Charity Trustees (in a Baptist church this is usually the minister, deacons and elders, or the leadership team). Along with the minister – or the incoming minister – and the minister's family, the Charity Trustees will consider what sort of house is needed. Some of the issues to bear in mind are location, size and price.

It is necessary to have some idea of property values in the area and work out how much money will be available – from the sale of the present manse, 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 the property.

If the minister wants to buy a share in the manse then you should also read PM03 Shared Ownership of a Manse. However, in estimating the overall cost you need to take account of Stamp Duty Land Tax in England or, in Wales, Land Transaction Tax. Where a church (or the Baptist Union Corporation) holds 100% of both the legal and equitable title no Stamp Duty Land Tax or Land Transaction Tax will generally be payable. This is because charities are normally exempt. However, whenever private individuals become involved the situation is more complicated; the charity may not have to pay Stamp Duty Land Tax on its share but the individuals may have to pay the tax on their proportion. In Wales the tax on this type of shared purchase is generally reduced by the same proportion as the percentage of the property that is being acquired by the church or, if lower, the percentage of the overall price which is being paid by the church. The rules can be complicated and, whether English Stamp Duty Land Tax or Welsh Land Transaction Tax applies, legal advice should be obtained on every transaction.

A CONTACT PERSON

The Charity Trustees 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 CHURCH MEMBERS' MEETING

The proposals must be discussed by a church members' meeting. In most churches the Constitution requires 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 will be best if the members resolve in principle to purchase a new manse and, if necessary to borrow part of the purchase price by way of mortgage and leave it to the Charity Trustees to choose a suitable property 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 on mortgage) but if too much detail has to be referred to a subsequent members' meeting the process will be delayed and frustration caused to potential sellers as well as to the church and the minister.

If this is the first time the church have purchased a manse and the church wishes to use the Baptist Union Corporation as a holding trustee for the property the Special Church Members' Meeting should also resolve that the Baptist Union Corporation be asked to hold the property as trustees on the Baptist Trusts for Manses 2004. Please see leaflets T08 *Manse Trusts* and T11 *Baptist Trusts for Manses 2004*.

If the church are also selling a manse please refer to the leaflet PM02 *Selling a Manse*.

The proposed purchase and how it will be financed and with a note of the name, address and day-time telephone number of the contact person will be needed by the Baptist Union Corporation Limited and the solicitors.

FINDING A PROPERTY

When a property is found which seems suitable how can you make sure that it is the right one and that there are no potential problems with it?

In the first place the Charity Trustees and the minister – and the minister's family – will want to look at it critically to decide whether it appears to be suitable as a manse for the church and as a home for the family. It always pays to visit several times – and at different times of the day. Look for possible defects and obvious needs of repair – both inside and outside.

Churches and ministers should consider the information provided in our Guidelines Leaflet PM06 *Manse Occupancy*.

It is important that the manse is chosen carefully and is suitable. For shared ownerships, there is more guidance in our leaflet. PM03 *Shared Ownership of a Manse*. Do not just choose a property to suit one minister.

CHECKING THE PROPERTY

The Baptist Union Corporation requires that when a property is to be taken in trust by them a professional survey is obtained – such as a Home Buyer's Report and Valuation provided by a qualified surveyor who is a member of the Royal Institution of Chartered Surveyors. Many larger Estate Agents will have a qualified surveyor on their staff who will be happy to discuss the need for a survey with you and tell you how much it will cost. The surveyor should have no connection with the seller or the selling agents.

If you plan to obtain a commercial loan the mortgage lender will probably deal with the survey at a time when they choose.

Do not organise your own survey too soon – your lender may not accept it. Check with them first.

When the survey is received read it carefully. Pay particular attention to defects it reveals in the property. It will usually run to several pages but at the end will be a helpful summary and 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. Copy of the survey should be sent to the Solicitors dealing with the sale.

AGREEING THE PRICE

The seller and the Estate Agents acting for the seller will have stated how much they want for the property. 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 and survey'.

When you have received and considered the survey you are in a position to either confirm the offer or to submit a revised offer if there is a lot of work to be done.

In doing so bear in mind that you are responsible for church funds so it is not good to pay more than a property is worth. Consider the value indicated by the surveyor and the potential expenditure on the property.

Be clear about what is included in the purchase price. Carpets and curtains may be included and often light fittings, other electrical equipment and other fittings. You should receive a detailed Fixtures and Fittings List from the Solicitors which should be checked carefully.

You will almost certainly not have the benefit of any guarantees for any items included in the sale so you might want to check that everything is working properly. It would be wise to arrange for the 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.

FUNDING THE PURCHASE

Most churches need to borrow money to help with the purchase of a manse. The Baptist Union Corporation operates the Baptist Union Loan Fund which may be able to help – please see our guidelines leaflet M01 *Loans to Churches* – please also refer to the important notice on the front sheet of this leaflet.

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 external 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 wish to 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. This would usually include a request for the appropriate Baptist Trust Company to accept trusteeship of the property on the basis of the appropriate model trusts eg the Baptist Trusts for Manses 2004.

TRUSTEESHIP – PROPERTY OWNERSHIP - AUCTIONS

For Baptist churches properties are usually put in the name of the Trust Company. 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 not work, since the trustees of the funds will have to be satisfied that they are to be used in buying an appropriate investment. Proper preparation is vital.

SHARING THE OWNERSHIP

It is possible for the ownership of the manse to be shared by the church and the minister. Your attention is drawn to the leaflet PM03 *Shared Ownership of a Manse*.

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

Website: www.anthonycollins.com
Email: 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. They are able to act for both the church and the Baptist Union Corporation Limited.

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.

The solicitors will guide you through the legal procedures involved in the purchase of the manse. Once you have given formal instructions to them, Anthony Collins Solicitors will send you a set of notes describing the legal stages of a transaction involving a church in more detail.

They will carry out searches and preliminary enquiries and make sure that finance is available before contracts are exchanged. They will 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.

There will usually be at least two documents that need to be signed by church representatives and the Baptist Union Corporation Limited.

USING OTHER SOLICITORS

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 we reserve the right for Anthony Collins Solicitors LLP to act for the Baptist Union Corporation Limited. The Baptist Union Corporation Limited will need Anthony Collins Solicitors LLP to approve documents that are to be signed by the Baptist Union Corporation Limited. Anthony Collins Solicitors LLP will oversee the transaction on our behalf. Their costs will be payable by the church.

EXCHANGE OF CONTRACTS AND COMPLETION

Signing documents does not indicate a binding purchase. The solicitors will need to exchange the signed contracts with the seller's solicitors.

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 agreed. 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. This 'completion or moving date' is not fixed and binding until contracts have been exchanged.

Do not forget that you will need to arrange for services like telephone, electricity etc to be connected and new billing arrangements made.

The insurance for the new house should be arranged **BEFORE** contracts are exchanged.

MANAGING THE PROPERTY

After the manse 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 any title deeds will be sent to the Baptist Union Corporation, or if there is a mortgage, to the lender, as necessary.

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 of the manse and should be carefully filed with the church papers and records for reference purposes.

As well as being the church manse the property will be the home of the minister and the minister's family. Responsibility for repairs and decoration and other matters of maintenance will be governed by the minister's terms of appointment. Although the Baptist Union Corporation will be the Holding Trustees of the property the Charity Trustees of the local church will be responsible for all day-to-day matters.

The guidance produced by Ministry Department – see page 2 section 'Finding a Property' will be useful.

The Baptist Union Corporation should be consulted if work of a structural nature or alterations requiring planning consent are proposed, but the church must be careful about any alterations. Our leaflet PC04 *Redeveloping or Altering Church Premises* offers some guidance. It is important to remember that manses are not always classed as residential property – so read the PC04 leaflet *Redeveloping or Altering Church Premises* carefully. For even routine building work the Construction (Design and Management) Regulations can apply, see our leaflet PC05. Our Health and Safety leaflet (L10) mentions the need for regular checks on gas and electrical services.

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 contribution 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.

Please refer to checklist on following page.

CHECKLIST FOR CHURCHES – BUYING A MANSE

- ❑ Local church, especially its Charity Trustees, gives initial consideration to proposal to buy a manse and sets a budget for the purchase and other expenses.
- ❑ Appoint contact person who communicates with Baptist Union Corporation's Solicitors and Estate Agents.
- ❑ Consider requirements for Special Church Members' Meeting.
- ❑ Hold Special Church Members' Meeting making appropriate resolutions to authorise transaction.
- ❑ Appoint Solicitors - Confirm to Baptist Union Corporation that Anthony Collins are to act for the church or give details of other solicitors and confirm that the church will be responsible for any additional costs incurred by Baptist Union Corporation.
- ❑ If a mortgage advance is needed obtain application forms for loan seeking guidance on commercial mortgages where appropriate.
- ❑ Read and follow through the guidance given by Anthony Collins Solicitors LLP in their Procedure notes.
- ❑ Confirm to Baptist Union Corporation that church will make contribution towards expenses of Baptist Union Corporation.
- ❑ Arrange a survey of the property (if there is a mortgage the lender will need to be involved – doing a survey too soon sometimes causes problems).
- ❑ Ensure that Solicitors and the Baptist Union Corporation know the final details of the transaction.

Association Trust Company	Contact
Baptist Union Corporation Ltd East Midland Baptist Trust Company Ltd	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 480 Chester Road Sutton Coldfield B73 5BP Office Mobile: 0730 505 1770
London Baptist Property Board	London Baptist Association Unit C2 15 Dock Street London E1 8JN Telephone: 020 7692 5592
Yorkshire Baptist Association	17-19 York Place Leeds LS1 2EZ Telephone: 0113 278 4954
West of England Baptist Trust Company Ltd	West of England Baptist Trust Company Ltd Little Stoke Baptist Church Kingsway Little Stoke Bristol BS34 6JW 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
Website: www.baptist.org.uk Registered CIO with Charity Number: 1181392

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