

## **Guideline Leaflet PM02: Selling a Manse**

This leaflet explains the practical issues churches must consider when selling a manse or residential property. There are processes that must be followed to meet the requirements of charity law in arranging a sale. It also includes information about how the funds from a sale can be used.

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.

## PM02: Selling 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 SELL

There are different reasons for a church wanting to sell their manse. Perhaps the manse is no longer suitable, either for the present minister or for a new minister who is coming to the church. Or it may be that the church feel they are no longer able to support a minister and can see no prospect of being able to do so in the immediate future. Whatever the reason, it will first be discussed by the diaconate.

If the reason for selling is because a new manse is being purchased then you should also read leaflet PM01 *Buying a Manse*.

If you are selling only because at present you feel you no longer have need for a manse you may find it helpful to refer to leaflet PM04 *Letting a Manse*.

The Charity Trustees (usually the deacons, minister 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 the local church Constitution for any special requirements in your church.

It will be best if the members resolve in principle to sell the manse and leave it to the deacons to agree the method of disposal and the price and go ahead with the sale. The Charity Trustees will need to take into account the advice of a qualified surveyor (see next section) but if too much detail has to be referred back to a subsequent members' meeting the process will be delayed and frustration caused to potential buyers as well as to the church.

Details of the proposed transaction 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.

### CONSULTATION

The Baptist Union Corporation will consult the Regional Minister for the area when a manse is being sold if the church has no immediate intention of purchasing a new manse. This is because a manse is

obviously a very valuable asset to the church; the absence of a manse can often make it very difficult to settle a new minister. The Regional Minister may wish to discuss the circumstances with the church before the Baptist Union Corporation confirms that the sale should proceed.

## **FINDING A SURVEYOR**

An essential point to bear in mind is that the law regards a Baptist church as a charity. This means that in selling any property – including a manse – the Baptist Union Corporation as a Property or Holding Trustees, and the Charity Trustees of the local church (usually the deacons, minister, elders or Leadership Team), must act in accordance with the provisions of the Charities Act 2011. The Act requires local Charity Trustees to obtain and consider a report on the proposed sale from a qualified surveyor.

Your church will need to identify a suitably qualified surveyor practising in the locality of the church. This must be a person who is a fellow or professional Associate of the Royal Institution of Chartered Surveyors. It would be the normal practice to select the surveyor from a firm of local agents who will eventually deal with the marketing of the property but there could be circumstances where the best local selling agents did not have a qualified surveyor. Normally the agent could recommend a surveyor if this happened.

The surveyor's report must comply with appropriate regulations (The Charities (Qualified Surveyor's Reports) Regulations 1992) but the Solicitors will offer guidance on these procedures.

The report will describe the property any legal restrictions which apply to it and its state of repair, the report will advise how a sale should be conducted; a sale by private treaty or by public auction may be recommended. The surveyor may, in some cases, consider that repairs or alterations should be carried out or planning consent sought for alternative use before the property is offered for sale. The report will give the surveyor's opinion of the value of the property in its present state and, if appropriate, when repairs or alterations have been done or planning consent for alternative use obtained. Finally the surveyor will indicate whether a disposal at this time is in the best interest of the church and how the property should be marketed.

The Charities Act provides that the Charity Trustees must consider the advice contained in the surveyor's report and that the terms for the proposed sale are the best that can reasonably be obtained for the church. Again there are some legal procedures to follow but the Solicitors will offer guidance.

## **MARKETING THE PROPERTY**

Estate Agents may now be appointed by the contact person on behalf of the church to act in accordance with the advice given by the surveyor. The church will be asked to sign an agreement with the Estate Agents covering several issues – including their commission. Read the agreement carefully and make sure that commission will only be payable by the church if a buyer is found who actually complete the purchase. Check any provisions in the agreement which give to the Agents a sole agency for the sale.

## **RECEIVING AND EVALUATING OFFERS**

If the property is being sold other than by auction an offer which is not less than the value indicated by the surveyor may be accepted on behalf of the church 'subject to contract'.

If a lower offer is received the church (and the Baptist Union Corporation) must consult the original surveyor who prepared the initial report. The sale can only proceed if the surveyor is able to confirm in writing that the lower offer is the best price obtainable.

If the property is being sold by auction advice will be needed about the reserve price, below which the property will not be sold, and will be agreed with the auctioneer. The surveyor will be involved in consultation with the church.

Be very clear about what is included in the sale. Carpets and curtains and often light fittings and other electrical equipment are often included. The church will be asked to fill in a Fixtures and Fittings List by your solicitor. This must be completed carefully.

The local church contact will also be asked to complete a list of questions or enquiries about the property. Again, it is very important to be careful to provide clear and accurate replies. Misleading or incorrect information could lead to a claim for compensation later if there is a problem. For example, if the church states that repairs have been made and are guaranteed but are later found to be defective.

## **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

DX13055 Birmingham 1

Telephone: 0121 200 3242

Fax: 0121 212 7442

Website: [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. They are able to act for both the church and the Baptist Union Corporation Ltd.

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 the 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 need 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 sale of the manse. Once you have given formal instructions to them, Anthony Collins Solicitors LLP will send you a set of notes describing the legal stages of a transaction involving a church in more detail.

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

## 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 Anthony Collins Solicitors LLP will oversee the transaction on our behalf. Their costs will be payable by the church.

## COMPLETION

Before contracts are exchanged – the point at which the church and the buyer are legally committed to proceed – a date for completion of the sale will be fixed. This will be the date on which the property must be vacated and the keys handed to the Estate Agents. Do not release the keys directly to the buyer.

Remember to arrange for final bills to be paid for rates and other services.

The insurance on the property must not be cancelled until after completion of the sale.

## THE PROCEEDS OF SALE

Following completion of the sale the solicitors will pay to the Baptist Union Corporation, as Holding Trustees for the church, the net proceeds of sale. This will be the sum left over after all deductions have been made – including the repayment of any mortgage on the property, the estate agents' commission, the surveyor's fees and the solicitors' costs together with any other disbursements.

If the minister has a share in the manse any payment due to the minister will also be dealt with by the solicitors. Your attention is drawn to leaflet PM03 *Shared Ownership of a Manse*.

If a replacement manse is being purchased the net proceeds of sale will be used by the solicitors towards the purchase of a new property.

The balance remaining with the Baptist Union Corporation is a manse trust fund and will be held on deposit pending its use or long term investment.

It can only be used in accordance with the trusts upon which the manse was held. If these were the Model Trusts for a manse (the Baptist Trusts for Manses 2004) interest earned is available to the church for any of its normal purposes but the capital only be used 'in connection with the charitable purposes of the church' or 'in connection with such other charitable purposes of the Baptist denomination' as a Church Members' Meeting may determine and the Baptist Union Corporation as trustees may approve. A request for the expenditure of capital should be sent to the Baptist Union Corporation.

The Baptist Union Corporation may need to consult the Regional Minister for the area, particularly when the church has not purchased a replacement manse. This is because the inability of a church to provide a manse can make it more difficult to settle a new minister. It may be wise to retain the capital sum as a deposit for the future.

If it is recognised that a replacement manse is not likely to be purchased for some time the Baptist Union Finance Office should be consulted so that the proceeds of sale may be invested in the name of the Baptist Union Corporation in the most advantageous way.

For further information about Model Trusts see leaflets:

T08 *Manse Trusts*

T09 *Kingsgate Trusts*

T10 *Holborn Trusts*

T11 *Baptist Trusts for Manses 2004*

## THE CORPORATION'S EXPENSES

Although all outgoings incurred by the Baptist Union Corporation on behalf of a 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.

## CHECKLIST FOR CHURCHES - SELLING A MANSE

- The Charity Trustees as the local church give initial consideration to proposal to sell the manse.
- Appoint contact person who communicates with the Baptist Union Corporation's Solicitors and Estate Agents.
- Consider requirements for Special Church Members' Meeting – check the arrangements in the local church Constitution.
- Hold a Special Church Members' Meeting making appropriate resolutions to authorise the transaction.
- Select a suitably qualified surveyor to prepare a report, then following the advice deal with the marketing of the property, having regard to the advice of the solicitors and the requirements of the Charities Act 2011.
- Appoint Solicitors - Confirm to the Baptist Union Corporation that Anthony Collins are to act for the church or give details of other solicitors and confirm that church will be responsible for any additional costs incurred by the Baptist Union Corporation.
- If agreed confirm to Baptist Union Corporation that church will make a voluntary contribution towards expenses of the Baptist Union Corporation.
- Deal with signature of documents and passing any necessary additional resolutions (by the Charity Trustees).
- Cancel insurance of property after completion of sale.
- Ensure that bills for rates, water and other outgoings, are paid up to the date of completion.

Association Trust Company	Contact
<b>Baptist Union Corporation Ltd East Midland Baptist Trust Company Ltd</b>	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 480 Chester Road Sutton Coldfield B73 5BP Office Mobile: 0730 505 1770
<b>London Baptist Property Board</b>	London Baptist Association Unit C2 15 Dock Street London E1 8JN Telephone: 020 7692 5592
<b>Yorkshire Baptist Association</b>	17-19 York Place Leeds LS1 2EZ Telephone: 0113 278 4954
<b>West of England Baptist Trust Company Ltd</b>	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](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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