

Guideline Leaflet PC06: Redeveloping or Building Church Premises – Contract Procurement – The Alternatives

Churches considering redevelopment of their buildings will sometimes consider appointing a single company to deal with the design, building, and the purchase of furniture and fittings. This can be useful when there is a new or vacant site and a brand new building is needed. The contract arrangements for a design and build project need to be considered carefully because there are choices to be made.

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.

PC06: Redeveloping or Building Church Premises - Contract Procurement – The Alternatives

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

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[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.

The notes must be read in conjunction with Guidelines Leaflet PC04 *Redeveloping or Altering Church Premises*.

DESIGNING A NEW CHURCH BUILDING

The design and construction of any new building is a complex process; that of a new church particularly so. The design of a church building can express the very nature of the church. Often the local community's only way of judging the church may be by the outward appearance of the building. The design must therefore embody not only the aim and aspiration of worship, but also the practicality and direction of service. The detailing must ensure that the worshipper is supported not distracted by the building, and that the church's mission is helped by the building.

In all such areas, the imperative from the church's point of view is to ensure that the designer understands the church's needs and is responsible directly to the building committee as the design and detailing develops.

CHOICE OF CONTRACT ROUTE

How does this affect the church/designer relationship?

The Traditional Contract Route

The architect is appointed to be responsible for the entire design, detailing, specification and contract administration from the initial sketch scheme through to the completion of the building works. The architect will inspect the works as they proceed and ensure that the building is being built in accordance with the design and specification. Other professionals, such as a structural engineer and quantity surveyor, support the architect but the design team is directly answerable, via the building committee, to the church.

The Design and Build Route

The architect is appointed directly by the contractor.

The church will normally appoint an architect or surveyor and often referred to as the Employer's Agent. They will prepare a document to embody a description, brief and specification for the new building known as the Employers Requirements. A design and build contractor will be selected by tender or some other means, based upon these Employer's Requirements. The Contractor will include with the tender the favoured design, method of construction, materials, specification, etc that in the contractor's

view comply with the Employer's Requirements. These are called the Contractor's Proposals. Once the contractor has been selected, it is the contractor who takes over responsibility for designing and building the scheme in accordance with the Contractor's Proposals.

Thereafter the Church has to rely upon the contractor complying with the Contractor's Proposals that, by definition, allow the contractor to interpret the Employer's Requirements in certain areas.

In some instances the Church appoints the architect or the designer to prepare the initial planning drawings. These can be used as the basis of the Employer's Requirements with the architect who submitted the planning application being 'novated' to the design and build contractor. The architect or designer, from this point on, will be directly engaged and answerable only to the contractor. Alternatively, instead of being 'novated' to the contractor, the original architect may be retained by the church as their Employer's Agent.

CHOICE OF CONTRACT ROUTE

How does this affect the final costs of the project?

The Traditional Contract Route

The contract is let based upon architects' and engineers' detailed drawings and specifications and a Bill of Quantities prepared by a quantity surveyor. The contractors' prices for items of work contained within a Bills of Quantities are fixed, but variations to the contract are priced and added to or subtracted from the contract sum. In the event, for instance, of unforeseen problems being encountered under the ground, where uncertainty always exists, the Employer may end up paying extra. Likewise, if the Employer changes a detail for any reason, it is likely that the contractor will look for extra payments.

Since these issues are well known within the industry, the design team attempts to reduce the risk by ensuring that full soil investigations are undertaken and sufficient 'provisional' sums included for potential problems. In the event of the problem not occurring the employer does not pay out such sums. Also the architect and other designers ensure that the design is 'fixed' prior to the preparation of the Bill of Quantities, thereby reducing the necessity to revise drawings to a minimum.

The Design and Build Route

The building contract is let based upon the Employer's Requirements supported by the drawings, with the Contractor's Proposals, as described above and is a fixed price contract in the sense that most people understand. Once the contract is let, any problems that occur underground, or any variations that arise due to revisions in detailing, are entirely at the contractors' risk. No extras are payable under this form of contract unless the Employer instructs the contractor to change something.

This appears very favourable to the Employer, but there are two aspects that it is worth noting. Firstly, the Contractor's Proposals is the document that fixes the contract sum, therefore the Employer has little control over specific detailing and selection of materials provided that the solution offered by the contractor complies with the Contractor's Proposals. Secondly, the contractor will look at the likely risks associated with the site. If the contractor identifies a risk underground, the contractor will inevitably price the risk, and if the problem is less than envisaged, the contractor will retain any saving. .

CHOICE OF CONTRACT ROUTE

What about professional fees?

The Traditional Contract Route

The Church is responsible for paying the fees of all the consultants whom they employ. Clearly, it is appropriate for competitive fee proposals to be among the items considered by a Church when selecting an architect so the costs of these will be limited to a certain extent. Professional fees attract VAT that is not recoverable by the Church.

The Design and Build Route

The Church are responsible for paying the fees of all the consultants whom they employ up to the stage of seeking tenders. The Church is also responsible for paying the fees of the Employer's Agent. VAT

will be attracted to these fees. Once the contract has been let the contractor is responsible for paying for the designers. Generally the fees will be comparable with those chargeable via the traditional route, but the contractor may choose not to employ the architect or engineer for any site inspection role. The contractor may be able to claim back the VAT element on these fees.

CHOICE OF CONTRACT ROUTE

How does this affect the finished quality of the project?

The Traditional Contract Route

The architect and the professional team monitor the progress of the works regularly. They ensure that the works are generally in accordance with the quality, detailing and specification contained within the Building Contract. They may be supported by a clerk of works, who may have no contractual role, but acts as the 'eyes and ears' of the Church and the architect. It is ultimately the responsibility of the contractor to achieve the quality prescribed, but it is the architect who determines the level.

The Design and Build Route

The Employer's Agent monitors the progress of the works regularly. The Employer's Agent will ensure that the works are generally in accordance with the quality and specification contained within the Contractor's Proposals. Again a clerk of works may support the Employer's Agent. It is the responsibility of the contractor to achieve the quality prescribed, but since the contractor is complying with the contractor's own document, there can be occasions when the contractor's commercial interests conflict with the quality being sought by the Employer.

CHOICE OF CONTRACT ROUTE

How does this affect the church's involvement in the design and specification?

The Traditional Contract Route

The Church, through the building committee, is involved in and agrees the entire design and specification of the scheme with the architect and the design team. The scheme will not progress until the Church is entirely satisfied with the full content of it.

The Design and Build Route

The church's involvement in the design and specification is limited to the preparation of the Employer's Requirements. The contractor prepares the Contractor's Proposals that are their response to the Employer's Requirements. Thereafter the contractor is entirely responsible for the design and specification of the scheme in compliance with the Contractor's Proposals.

POTENTIAL PROBLEMS

What other issues should be considered - *The Traditional Contract Route*

- The Church must include a 'contingency' provision in the budget for unforeseen circumstances.
- Clarity about VAT exemptions and payments is vital.
- Clear Agreements with advisers and contractors.
- Consider requiring Performance Bonds from contractors.

The Design and Build Route

- Collateral Warranties from the contractors professional advisers will be required; for the benefit of both the Church and the Holding Trustees (for more information please refer to PC04 *Redeveloping or Altering Church Premises*).
- Where a design and build route is being considered, or where there are a number of partners involved in a project, Latent Defects Insurance may be helpful (for more information please

refer to PC04 *Redeveloping or Altering Church Premises*).

CHOICE OF CONTRACT ROUTE

Conclusions

A Church may wish to consider the Design and Build approach for the following reasons

- It appears to give certainty regarding final costs.
- It provides a single point of responsibility for the design and construction process.

However, the following areas can be detrimental to the Church's control of the scheme:

- The designers are employed by the contractor and therefore no longer answerable directly to the Church.
- The possibility of the contractor determining the design on the basis of purely financial grounds.
- Overall loss of quality control with no independent designer/specifier being responsible to the Church.

Design and build contracts can be seen as an economic way of procuring simple standardised buildings such as factories and warehouses and some forms of housing. The construction of new church facilities will provide a bespoke building requiring a consistent and in-depth approach to design, detailing, specification and quality and a Church will normally be best served by employing a team of professionals who are directly responsible to the Church for the entire project from inception to completion using the traditional contract route.

ENVIRONMENTAL CONSIDERATIONS

As part of our call to share in God's mission to all of creation, when considering maintenance and development of church premises, manses and land, we should include a consideration of the environmental impact. Statutory requirements will mandate adherence to a range of environmental standards but churches are also urged to take a broader view of the impact of the use of their property and development of their buildings on the environment, seeking to make them and church life in general as sustainable and environmentally friendly as possible. Churches considering projects such as building insulation, solar panels or heat pumps should take a balanced view, giving thought not only to the proposed environmental benefits but also to any wider consequences, including costs, and seek professional advice before proceeding, to ensure that they are acting in the best interests of the church charity.

The Baptist Union Environmental Network ('BUEN') webpage [here](#) has links providing general advice regarding buildings and land. Further advice can be found in the Baptist Union's [Transform leaflets](#) in the "Environmental Issues" section. Churches may wish to undertake their own environmental audit using online resources such as the survey provided by A Rocha for their [Eco Church scheme](#) or BMS Worldmission's [Carbon Calculator](#), but appropriate professional advice should always be sought in connection with the planning of any building works or projects. Grants may be available from national and local governments.

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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.

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Date of Issue: January 2024