

Guideline Leaflet T06: Fairbairn Trusts

This leaflet only contains the text of the Fairbairn Trusts, a set of Modern Model Trusts for church sites and chapel buildings which was available between 1962 and 2003. This leaflet does not contain any explanation of the way the trusts apply to Baptist church property, but this information is contained in other leaflets – there is a list on the next page.

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.

T06: Fairbairn Trusts

This leaflet contains the text of the Fairbairn Trusts.

These are a set of Model Trusts, promoted by the Baptist Union of Great Britain. They were produced to help local Baptist churches with various legal and property arrangements for their church property, including land, chapels, halls, caretakers accommodation, and burial grounds.

They were available for churches to adopt between 1 May 1962 and 3 May 2003.

For those churches that adopted the Fairbairn Trusts between 1962 and May 2003 but have made no further changes to their property and trust arrangements they will still apply.

For general information about the development of our current patterns of Baptist property ownership, and particularly Modern Model Trusts please refer to:

T01 *Baptist Property Trusts – Beginnings and Patterns*

T02 *Modern Model Trusts*

T03 *Appointing Property Trustees – Baptist Trust Corporations*

T04 *Ultimate Trusts – Recycling money for mission.*

**The Trusts reproduced on pages 2-8 are the text of the
Fairbairn Trusts**

BAPTIST MODEL TRUST FOR CHAPELS AND HALLS

These trusts may be referred to as the Fairbairn Trusts and are the model trusts referred to in Section 4 of the Baptist and Congregational Trusts Act, 1951.

Following the passing of a resolution at the Baptist Union Annual Assembly on 1st May, 1961, approving amendments to the Fuller Trusts and a confirmatory resolution at the Assembly on 30th April, 1962, the revised trusts, known as Fairbairn Trusts, replaced the Fuller Trusts for the purpose of Section 4 of the Baptist and Congregational Trusts Act, 1951.

Advice as to the procedure for appointing the Baptist Union Corporation Limited or one of the Trust Corporations of the Baptist Associations may be obtained, free of charge, on application to the Baptist Union Corporation Limited, Baptist House, 129 Broadway, Didcot, Oxon, OX11 8RT or to the Secretary of the appropriate Baptist Association.

FAIRBAIRN TRUSTS

SCHEDULE OF TRUSTS

GENERAL

1 (1) These trusts are the Model Trusts for Chapels and Halls approved by the Union pursuant to the Baptist and Congregational Trusts Act, 1951 and may be referred to as the Fairbairn Trusts

(2) In this Schedule unless the context otherwise requires:-

"UNION" means the Baptist Union of Great Britain and Ireland

"ASSOCIATION" means the Regional Baptist Association operating in the locality in which the premises are situated being an Association in membership with the Union or if there shall be no such Association means the Union

"BAPTIST TRUST CORPORATION" has the meaning ascribed in the Baptist and Congregational Trusts Act, 1951

"CHURCH" means a Church of Protestant Dissenters of the Baptist Denomination which holds the following qualifications that is to say it shall

- (i) Consist of persons whose normal place of public worship is on the Church property and who hold the qualifications hereinafter mentioned
- (ii) Be constituted as hereinafter mentioned
- (iii) Accept the constitution for the time being in force of the Union and be in membership with the Union and the Association and
- (iv) Unless it existed on the day on which these present trusts came into operation in respect of the Church property have been first formed with the written consent of the Union and of the Association

"SOCIETY" means the Church holding the qualifications aforesaid but if and so long as at any time hereafter no such Church exists means such Recognised Denominational Society as the Union and the Association may from time to time designate.

"CHURCH PROPERTY" has the meaning ascribed in Clause 2

"RECOGNISED DENOMINATIONAL SOCIETY" means and includes the Union or any Association or other body which is duly recognised as Baptist by the Union

"TRUSTEES' EXPENSES" has the meaning ascribed in Clause 14

"FOUNDATION DEED" means any deed or other instrument containing trusts which affected the Church property on the day immediately preceding the day upon which these present trusts came into operation in relation to the Church property

- (3) (a) All the powers discretions and authorities hereby given to or vested in the Union shall be exercisable by the Council of the Union or by such Committee of the Council as the Council may from time to time appoint
- (b) All the powers discretions and authorities hereby given to or vested in the Association shall be exercisable by the Executive Council or Committee of the Association or by such sub-committee of the Executive Council or Committee as may from time to time be appointed

USE OF PREMISES

- 2 (1) The Trustees shall permit the said premises and any buildings for the time being erected thereon (hereinafter referred to as "the Church property") to be used occupied and enjoyed by or under the direction or management of the Society and in accordance with the principles and usages for the time being of Protestant Dissenters of the Baptist Denomination for all or any of the following purposes namely –
 - (a) As a place of Public Worship for the service of Almighty God
 - (b) As a place for the instruction of children or adults or as a Church Hall or as a place for the promotion of other charitable purposes in accordance with the principles and usages aforesaid
 - (c) Subject to the approval of the Trustees as a Burial Ground
 - (d) As a place for maintaining and practising the doctrine and rite of the Baptism of Believers and no other Baptism
 - (e) As the curtilage of any such place as aforesaid.
- (2) Provided that nothing herein contained shall prohibit the Stated Minister for the time being appointed by the Society or the Caretaker for the time being of the Church property or of any other property belonging to the Society from being permitted to reside on some part of the Church property

GENERAL MANAGEMENT

- 3 The Trustees shall permit the Society in all respects (save only as herein otherwise specifically provided) to manage and conduct the affairs of the Society and all organisations and activities belonging thereto or associated therewith which shall be carried on upon any part of the Church property

MINISTER

- 4 The Trustees shall permit to officiate in the Church property such Stated Minister or Ministers of the Baptist Denomination as the Society shall from time to time appoint holding the Deity of the Lord Jesus Christ and the authority of the Holy Scriptures and that interpretation of them usually called Evangelical and having been immersed on a confession of faith in the Lord Jesus Christ and maintaining and practising the doctrine and rite of the Immersion of Believers and no other Baptism and whose name appears on the accredited list of Baptist Ministers and Probationers of the Union PROVIDED ALWAYS that this last mentioned qualification may from time to time in the case of any Minister who has made written application to the Union for the waiver thereof be waived if the Union shall think fit upon such conditions if any as the Union may determine

5 The Stated Minister or Ministers shall ex-officio be President or Presidents of all Societies and Organisations belonging to or associated with the Society which meet or are carried on upon any part of the Church property

6 The Trustees shall remove and in all lawful ways eject from the Church property any Minister or Ministers whom the Society shall lawfully dismiss or whose Ministry shall have been lawfully determined or (unless otherwise requested by the Union) whose names shall have been removed from the said accredited list

OCCASIONAL PREACHERS

7 The Trustees shall permit to officiate in the Church property such occasional preachers holding the Deity of the Lord Jesus Christ and the authority of the Holy Scriptures and that interpretation of them usually called Evangelical as the Society may appoint

IMPROVEMENT OF BUILDINGS

8 The Trustees shall permit the Society to erect buildings on the Church property or to alter improve enlarge add to or pull down and rebuild the buildings for the time being or forming part of the Church property in such a manner as the Society shall determine and the Trustees shall approve

SALES LETTINGS EXCHANGES AND MORTGAGES

9 Subject to any statutory restrictions for the time being in force it shall be lawful for the Trustees to sell demise or let the Church property or any part thereof in such manner or to exchange the same or any part thereof for such other hereditaments of freehold or leasehold tenure and to pay or accept such money (if any) by way of equality of exchange as the Society shall determine and the Trustees shall approve and from time to time to raise by Mortgage of the Church property or any part thereof such sum of money and at such rate or rates of interest as the Society shall determine and the Trustees shall consider expedient

10 (1) The Trustees after satisfaction of the Trustees' expenses shall apply the monies (other than periodical rentals) arising from any such sale letting exchange or mortgage as foresaid in or towards such one or more of the following purposes as may be determined by the Society and approved by the Trustees namely

(a) The payment of the expenses of any such works of erection alteration improvement enlargement addition pulling down and rebuilding as are herein mentioned or

(b) The purchase or acquisition for the purposes of the Society of any other properties of a freehold or leasehold tenure and the erection thereon of buildings for the purposes of the Society or

(c) The defraying of any expenditure of a capital nature incurred or to be incurred in connection with any other charitable purpose of the Baptist Denomination

(2) Subject to satisfaction of the Trustees' expenses the Trustees shall pay any periodical rentals arising from any such letting as aforesaid to the Treasurer of the Society for the general purposes of the Society or shall at the request of the Society apply the same in defraying any expenditure incurred or to be incurred in connection with such other charitable purpose of the Baptist Denomination as the Trustees may approve

(3) The Trustees shall hold all hereditaments taken in exchange purchased or otherwise acquired by the Trustees under the foregoing provisions and all buildings erected thereon upon the same or the like trust and with and subject to the same or the like powers and provisions as are herein contained in relation to the premises originally constituting the Church property

ULTIMATE TRUST

- 11 If at any time it shall appear to the Union and the Association by reason of the number of members of the Church being unduly small or of any exchange in the character of the neighbourhood or by reason of the district in which the Church property is situated being adequately served or provided for by some other chapel or meeting house in the same district belonging to a Church in membership with the Union and the Association or for any other good and sufficient reason whatsoever (the decision of the Union and the Association as to the existence and sufficiency of any such cause or reason as aforesaid to be conclusive) that the Church property or any part thereof is no longer required or can no longer usefully be retained for the purposes of these present trusts then and in such case (subject as aforesaid to any statutory restrictions for the time being in force) the Trustees shall at any time thereafter at the joint request of the Union and the Association sell mortgage demise or let the Church property or any part thereof in such manner as the Union and the Association shall jointly determine and shall hold the net moneys arising from such sale letting or mortgage UPON TRUST for such persons or body of persons as may be entitled thereto upon the failure of the primary trusts set out in the Foundation Deed PROVIDED that (a) if there is no Foundation Deed or (b) the Foundation Deed contains no effective provisions for ascertaining the person or body of persons to be entitled upon such failure as aforesaid then and in either of such cases the said moneys shall be held upon such charitable trusts connected with the Baptist Denomination as the Union and the Association shall in their absolute and uncontrolled discretion jointly direct

INVESTMENT OF MONEY

- 12 If and so long as a Baptist Trust Corporation shall be the Trustee or one of the Trustees monies in the hands of the Trustees and not immediately required for the primary purposes of these trusts may be invested in the purchase of or at interest upon the security of such stock funds shares securities or other investments (including land of any tenure) of whatsoever nature and wheresoever as the Trustees shall propose and the Society shall approve to the intent that the Trustees and the Society shall together have the same full and unrestricted powers of investing and transposing investments in all respects as if the said monies and investments were vested in an individual as absolute beneficial owner

PROVISIONS IN MORTGAGES

- 13 In creating any Mortgage under any of the powers mortgaging herein contained the Trustees may insert in such Mortgage such power of sale and other powers and such covenants and provisions as they may think expedient including if it is thought desirable a provision of the continuance of the loan for any term therein specified

THE TRUSTEES

- 14 (1) Upon any professed exercise by the Trustees of any power herein contained no person dealing with the Trustees shall be bound or concerned to enquire whether the case in which the power is exercisable has happened or whether the exercise thereof has been determined upon or authorised by the Society the Association or the Union or otherwise as to the propriety or regularity of such exercise or in the case of any of the foregoing powers of raising money by Mortgage whether or for what purpose the money raised is required and notwithstanding any impropriety or irregularity whatsoever in the exercise of any such power the same shall in relation to such person be deemed to be within the power under which it purports to be made and be valid accordingly
- (2) All the trusts powers discretions and authorities hereby given to or vested in a Body Corporate acting as Trustee hereof shall be exercisable by their Committee of Directors
- (3) (a) All monies (in this Schedule called "Trustees' expenses") found paid or advanced by the Trustee in or towards the purchase of the Church property or any part thereof or the erection improvement or repair of any buildings thereon and any other expenditure properly incurred by the Trustees in the exercise of their duties and powers shall be reimbursed to the Trustees

- (b) If after no less than six months' written notice to the Society any such monies shall remain due to the Trustees they may (subject to any statutory restrictions for the time being in force) sell demise let or mortgage the Church property or any part thereof in such manner as they may in their sole discretion determine
 - (c) Any balance remaining in the hands of the Trustees after such reimbursement as aforesaid shall be applied in accordance with the provisions of Clause 10 of this Schedule
- (4) The power of appointing a new Trustee or new Trustees shall be vested in the Society PROVIDED that if and so long as a Baptist Trust Corporation is a Trustee or one of the Trustees no new or additional Trustee shall be appointed without the previous written approval of that Corporation

DISPUTES

15 If any dispute or difference shall at any time arise between the Trustees the Society the Association the members of the Church (whether a majority of such members or not) and the Stated Minister or Ministers or Officers of the Church when constituted or between any of such bodies or persons as to the meaning construction or effect of any of the provisions herein contained or as to any matters relating to the Church property or to the property or affairs of the Church or as to the doctrine teaching or mode of conducting Public Worship in the buildings belonging to the Church or as to any matter or thing whatsoever every such dispute or difference shall on application by the Society or the Association or the Stated Minister or Ministers or a majority of the Deacons or (if there are Elders) a majority of the Elders or not fewer than ten members of the Church be submitted for settlement to the Union whose decision shall be binding and conclusive on the parties to such dispute or difference and all other persons concerned or interested therein provided as follows:-

- (a) The Union may in its discretion decline to entertain any submission under this Clause if it does not consider the subject matter of such submission to be of a sufficiently serious character to call for its intervention
- (b) Nothing in this Clause shall enable the Union to override any determination of the Society the Association or a duly convened Meeting of the Church in regard to the subject matter of such dispute or difference when it shall appear to the Union that such determination was within the powers of the Society the Association or such meeting as the case may be and was arrived at regularly and properly and by any necessary majority

ALTERATION OF TRUSTS

- 16 (1) Subject as hereafter mentioned it shall be lawful for the Society to revoke vary add to amend or alter all or any of the provisions of this Schedule in such manner as the Society shall think fit except as far as they relate -
- (a) To the doctrines to be held and proclaimed
 - (b) To the qualifications of the Minister or Ministers or of the Deacons or Elders and Members of the Church when formed
 - (c) To the provisions of Clause 11 of this Schedule
- (2) No resolution of the Society under this Clause shall be effective unless and until the same shall have been submitted to and approved by the Union and upon such approval being given a Deed shall be prepared for giving effect to such Resolution which Deed shall be executed

CONSTITUTION AND MEETINGS OF THE CHURCH

17 The following provisions shall apply to the Constitution and Meetings of the Church

Membership

- (a) No person shall be entitled to become or remain a member save such persons as hold the Deity of the Lord Jesus Christ and the authority of the Holy Scriptures and that interpretation of them usually called Evangelical and who have made confession of faith in the Lord Jesus Christ

- (b) If a Foundation Deed so requires the Church shall have closed membership that is to say no person shall be entitled to be or remain a member save such persons as have been baptised that is to say immersed upon a confession of faith in the Lord Jesus Christ

Minister

- (c) No person shall be appointed or continue as a Minister save a person holding the qualifications hereinbefore mentioned in relation to Ministers

Deacons or Elders

- (d) No person shall be eligible to be or remain a Deacon or Elder of the Church unless he or she is a member of the Church.
- (e) If the membership is not closed as aforesaid then all or at least a majority of the Deacons and (if there are Elders) then also at least a majority of the Elders of the Church shall nevertheless at all times consist of persons who have been baptised that is to say immersed upon a confession of faith in the Lord Jesus Christ

General Church Meeting

- (f) A General Meeting of Members of the Church shall be convened not less than once in every quarter by or on behalf of a committee (hereinafter called "the Diaconate") consisting of the Minister or Ministers and the Deacons. Oral public notice of such meeting and of the time and place appointed shall be given during or immediately after the Divine Service but before the dismissal of the congregation at each of the Public Services on the Lord's Day immediately preceding the date of such intended General Meeting

Special Church Meeting

- (g) The following shall be matters for the decision of a Special General Meeting of the members of the Church namely:-
 - (i) The appointment reappointment or dismissal of a Minister
 - (ii) Matters concerning the alteration improvement or enlargement of the buildings on the Church property or the addition to pulling down or rebuilding thereof or the erection of new buildings
 - (iii) Matters concerning the sale demise letting exchange or mortgage of the Church property or any part thereof and the application of moneys arising therefrom
 - (iv) The revocation variation addition to or amendment or alteration of any of the provisions of this Schedule within the limits of and pursuant to the power therein contained or any other enabling power in that behalf
 - (v) The appointment of new Trustees
- (h) Every Special Meeting shall be convened by the Diaconate by Notice given in a similar manner to that prescribed for a General Meeting on each of two Lord's Days immediately preceding the date of such intended Special Meeting
- (i) It shall be the duty of the Diaconate forthwith to convene a Special Meeting upon the receipt of a written request in that behalf signed by not less than one-tenth of the members for the time being of the Church PROVIDED THAT a Special Church Meeting need not in any case be convened at the request of fewer than twelve members
- (j) The purpose for which a Special Meeting has been convened and the matters intended to be transacted or dealt with thereat shall be either stated at the time of giving notice of the Meeting or if the Diaconate so decides shall be set out in written notice to be sent by prepaid post at least seven days before the date of the Meeting to every member of the Church at his or her last known address in Great Britain but the non-receipt of the notice by any member shall not invalidate the proceedings at the meeting

Procedure at Church Meeting

- (k) In the event of an equality of votes the Chairman of a General or Special Meeting (whether a member of the Church or not) shall have a casting vote whether he has or has not previously voted on the question
- (l) Votes shall be taken by ballot if so demanded by not less than three of the members of the Church present at the General or Special Meeting
- (m) No resolution passed at a General or Special Meeting shall be rescinded at a subsequent Meeting unless notice of the Resolution for such rescission has been given at the Meeting (whether General or Special) preceding such subsequent Meeting
- (n) A Resolution at a Special Meeting shall not be deemed to have been carried unless supported by the votes of not less than two-thirds of the members personally present entitled to vote and voting at such Meeting
- (o) At any General or Special Church Meeting the Minister or Senior Minister (if any) or Moderator for the time being of the Church shall (if he shall be present and willing to act as Chairman of such Meeting) be entitled to take the Chair unless the Minister or Ministers and Deacons or a majority of them shall have previously resolved that there shall be another Chairman in which case or if there shall be no Minister or Moderator then holding office or present and willing to act as Chairman the members present shall elect a Chairman (whether a Deacon a member of the Church or some other person) before proceeding with the business of such Meeting

Moderator

- (p) During any period when there shall be no Stated Minister of the Church the Church may and shall at the request of the Association from time to time elect as Moderator some person who is a member of the same or any other Baptist Church and has been baptised as aforesaid. Subject as aforesaid the Moderator for the time being shall act as Chairman at all Meetings of the Church and of the Deacons and Elders. A Moderator elected by the Church shall cease to hold office at the request of the church or upon appointment of a Stated Minister

If the Church shall fail to elect a Moderator at the request of the Association as aforesaid the Association may appoint a Moderator who shall hold office until the appointment of a Stated Minister or until released or dismissed by the Association

Minutes

- (q) Minutes shall be kept of the proceedings of any Church Meeting and any such Minutes shall if signed by a person purporting to have acted as Chairman of the Meeting to which the Minutes relate or of any Church Meeting at which they were read be conclusive evidence that any Resolution therein stated to have been passed was passed by the requisite majority at a Meeting duly convened and held and also of the due appointment of the person signing the Minute as Chairman

End of the Fairbairn Trusts

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 BMS Birmingham 24 Weoley Park Road Selly Oak Birmingham B29 6QX Telephone: 0121 472 4986
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

Date of Issue: June 2013