

Guideline Leaflet T11: Baptist Trusts for Manses 2004

This leaflet only contains the text of the Baptist Trusts for Manses 2004. This particular set of Modern Model Trusts for church sites and chapel buildings has been available since 2004. This leaflet does not contain any explanation of the way the trusts apply to residential 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.

T11: Baptist Trusts for Manses 2004

This leaflet contains the text of the Baptist Trusts for Manses 2004.

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 residential church property. Houses were generally used by the Minister and their family and are usually known as Manses. Sometimes these trusts for residential property are applied to other residential property used by other church workers, or let to provide an income to the church.

They have been available for churches to adopt since 2 May 2004.

For general information about the development of our current patterns of Baptist property ownership, please refer to:

T06 Manse Trusts

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

T08 Manse Trusts

BAPTIST MODEL TRUSTS FOR MANSES 2004

1 These Trusts are the Model Trusts for Manses approved by the Baptist Union of Great Britain pursuant to the Baptist and Congregational Trusts Act 1951 and may be referred to as the Baptist Trusts for Manses 2004.

Gives the name of the Trusts and notes that they have been made under the powers contained in the Baptist and Congregational Trusts Act 1951.

A copy of the 1951 Act is available from Baptist House.

2 DEFINITIONS

For the purpose of these Trusts unless the context otherwise requires:

If a word or phrase appears in the text of the Trusts with an initial Capital Letter its meaning is defined in Clause 2.

2.1 'ASSOCIATION' means the Baptist Association in membership with the Union which operates in the locality in which the Church is situated or if there shall be no such Association means the Union.

This will be one of the Associations in membership with the Baptist Union. If for any reason there is no Association in the geographical area of the Church then references to the Association in these Trusts will be taken to mean the Union.

2.2 'BAPTIST TRUST CORPORATION' means a Baptist Trust Corporation as defined in the Baptist and Congregational Trusts Act 1951.

This will be one of the recognised Baptist Trust Corporations. A list is given in 'The Baptist Union Directory'. Only Churches in trust with one of these Trust Corporations, either alone or jointly with other private trustees are able to have these Trusts adopted for their Trust Premises.

2.3 'CHURCH' means the Baptist Church

A Church is a group of people who have covenanted together, in accordance with Biblical Principles, to worship God and to engage in mission.

2.3.1 for which these Trusts relate and which is governed by a Constitution which is in conformity with the principles for the government of a Baptist Church set out in the Schedule to the Baptist Trusts for Churches 2003.

Charity law recognises a Church as an 'unincorporated association'. The Charity Commission regard the regular activities and the working funds of the Church as the principal charity of which the governing document is the Church Constitution. The property trusts, relating to Church property and manses, are legally separate charities but, when registration with the Charity Commission becomes necessary, a Uniting Declaration will enable them to be registered, together with the principal charity, with one registration number

The Church must have and adhere to a constitution that includes the provisions set out in the Schedule to the Baptist Trusts for Churches 2003. Different forms of Church may require different form of constitutions – these will be acceptable to the Holding Trustees so long as they follow the principles set out in the Schedule to the 2003 Trusts

As at June 2007 discussions are in progress with the Charity Commission about a form of document we can recommend and publicise.

2.3.2. which accepts the Declaration of Principle and is in membership with the Union and the Association.

The Church must accept the Declaration of Principle of the Baptist Union of Great Britain set out in Clause 2.5 of the Trusts and be in membership with the Baptist Union of Great Britain and its Association.

2.4 'CHURCH MEETING' means a properly constituted meeting of the members of the Church as provided for in the Church Constitution.

In the Baptist understanding of Church government it is the Church Meeting that is the final authority, under God, in the life of the Church.

2.5 'DECLARATION OF PRINCIPLE' means the Declaration of Principle of the Union that is to say:-

2.5.1 That our Lord and Saviour Jesus Christ, God manifest in the flesh, is the sole and absolute authority in all matters pertaining to faith and practice, as revealed in the Holy Scriptures, and that each church has liberty, under the guidance of the Holy Spirit, to interpret and administer His laws.

This is the Declaration of Principle of the Baptist Union of Great Britain. It is part of the Constitution of the Union. Ministers on the Register are required to subscribe to the Declaration of Principle. The Church using the Trust Property must also accept the Declaration of Principle.

2.5.2 That Christian Baptism is the immersion in water into the name of the Father, the Son and Holy Ghost, of those who have professed repentance towards God and faith in our Lord Jesus Christ who 'died for our sins according to the Scriptures; was buried, and rose again on the third day'.

The Declaration of Principle was first published in 1873. It was last revised in 1938. A study of the Declaration of Principle can be found in 'Something to Declare' jointly written by the Principals of the four English Colleges of the Baptist Union of Great Britain (edited by Richard Kidd) and published by the Baptist Union in 1996.

2.5.3 That it is the duty of every disciple to bear personal witness to the gospel of Jesus Christ, and to take part in the evangelisation of the world.

2.6 'DISPOSE' or DISPOSAL' means a sale or letting of the Trust Premises or the exchange of the Trust Premises for another property or the grant of a mortgage secured on the Trust Premises or the grant or release of any right over or any covenant affecting the Trust Premises.

Disposals are explained further in Clause 7.

2.7 'FOUNDATION DEED' means any deed or other document which contains Trusts which affected the Trust Premises prior to these Trusts being declared.

2.8 'HOLDING TRUSTEES' means the Baptist Trust Corporation acting as Holding Trustee of these Trusts and any individual or individuals who may be acting as Trustees jointly with that Baptist Trust Corporation.

The Holding Trustees are the Baptist Trust Corporation and any private individuals who are the Trustees of the Trust Premises jointly with the Trust Corporation.

The Holding Trustees are not the same as the Charity Trustees of the Church. Section 97 of the Charities Act 1993 defines the Charity (Managing)

Trustees as 'the persons having the general control and management of the administration of a charity'. It is normally the Minister and Deacons of the Church who fulfil this definition.

It is the Managing Trustees who, under the authority of the Church Meeting, are responsible for the Church funds and the everyday security, maintenance and insurance of the Trust Premises and the everyday conduct of Church activities. The Managing Trustees are responsible for keeping the Trust Premises in good structural and decorative repair.

The Holding Trustees strongly advise the Managing Trustees to have quinquennial surveys made of the Trust Premises to monitor their ongoing state of repair.

2.9 'THE PARTIES' means one or more of the following either the Church the Church Members a Minister of the Church the Diaconate as provided for in the Church Constitution the Holding Trustees the Association or the Union.

The Parties are referred to in Clause 13 of these Trusts.

2.10 'TRUST PREMISES' means the residential property to which these Trusts relate and which are vested in the Holding Trustees and which are under the day to day care and management of the Church.

This is the property that is actually the subject of these Trusts. The legal owners of the Trust Premises are the Holding Trustees (see commentary on Clause 2.8) but their ownership is to enable the Church to use the Trust Premises in accordance with these Trusts.

2.11 'TRUSTEE EXPENSES' means all reasonable and proper expenditure or costs incurred by the Holding Trustees in the exercise of any of their powers and duties.

Trustee Expenses are referred to in clauses 5, 8, 12.2, 12.3 and 12.4 of these Trusts. In this connection they refer to expenses incurred by the Holding Trustees.

2.12 'UNION' means the Baptist Union of Great Britain.

3 EXERCISE OF POWERS

These Clauses explain that the Union and the Association exercise their powers by decisions of the Council of the Union or the Executive Council or Committee of Directors of the Association.

3.1 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.

3.2 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 as may from time to time be appointed.

4 GENERAL MANAGEMENT AND USE OF THE TRUST PREMISES

This Clause speaks of the Church using and managing the Trust Premises. It must be remembered, however, that it is the Managing Trustees who have the legal responsibility for

Subject as hereinafter mentioned the Holding

Trustees shall permit the Trust Premises to be used occupied and enjoyed by or under the direction or management of the Church as a dwelling house for any minister or full time or part time employee or voluntary worker for the time being of the Church or for the caretaker for the time being of any other premises held by or in trust for the Church.

doing that on behalf of the Church – (see commentary on Clause 2.8).

The Holding Trustees will not interfere with the Church's everyday use of the Trust Premises provided the Managing Trustees operate within the Church Constitution and in a way that is not inconsistent with the Trusts.

The principal use of the Trust Premises is as residential accommodation for a minister or other employee or worker of the Church.

5 LETTING

If the Trust Premises are not for the time being required for use in accordance with Clause 4 the Holding Trustees may at the request of the Church let the Trust Premises or any part thereof upon such terms as the Church may propose and the Holding Trustees may approve in conformity with the provisions of the Charities Act 1993 and subject to the satisfaction of the Trustee Expenses shall stand possessed of the rent upon trust to pay the same to the Church for the general purposes of the Church.

Provides for the letting of the Trust Premises when they are not required for the principal purpose mentioned in Clause 4.

The Managing Trustees' attention is drawn to the Guidelines Leaflets published by the Trust Corporations in connection with the letting of residential accommodation.

Income from a letting is paid to the Church and is available for general Church purposes.

6 IMPROVEMENT OF BUILDINGS

The Holding Trustees having been given where appropriate plans and specifications of any proposed works may permit the Church to erect buildings on the Trust Premises or to alter improve carry out repairs to enlarge add to or pull down and rebuild the buildings for the time being forming part of the Trust Premises in such manner as the Church may propose and the Holding Trustees shall approve.

The Holding Trustees are the legal owners of the Trust Premises on behalf of the Church so they need to be advised of, and give their approval to, any works being proposed to the Trust Premises. The rule of thumb adopted by the Baptist Trust Corporations is that if Planning Consent or Building Regulation Approval are required, or if there are structural alterations or significant building works then the proposals need to be referred to the Trust Corporation for consideration.

Attention is particularly drawn to the Trust Corporations' Guidelines Leaflets relating to the redevelopment of church property. The Managing Trustees at all times retain legal responsibility for the maintenance of the Trust Premises and for complying with Health and Safety matters and other legislation affecting the premises.

7 DISPOSAL OF TRUST PREMISES

7.1 The Holding Trustees shall at the request of the Church Dispose of the Trust Premises or any part of them (and when carrying into effect such Disposal shall be the Charity Trustees for the purposes of the Charities Act 1993 or any statutory modifications thereof) subject to:-

If the Church requests the Holding Trustees to dispose of all or any part of the Trust Premises the Holding Trustees will do so if the provisions set out in this Clause are adhered to. The Holding Trustees and the Managing Trustees must comply with the Charities Act 1993.

7.1.1 any statutory restrictions for the time being in force.

The attention of the Church and, particularly, the Managing Trustees is drawn to the Trust Corporations' Guidelines Leaflets dealing with these matters.

7.1.2 a Church Meeting having approved such Disposal.

7.1.3 the Holding Trustees approving the Disposal.

7.2 The Holding Trustees shall hold land and buildings taken in exchange purchased or otherwise acquired by the Holding Trustees under the provisions of these Trusts and shall have the same powers and be subject to the same provisions as are herein contained in relation to the land and buildings originally constituting the Trust Premises.

If any of the Trust Premises are sold and other land or premises are purchased with the proceeds of sale or if any of the Trust Premises are exchanged for other property the newly acquired property will be held by the Trustees on these same trusts.

This Clause applies if the Trust Premises are sold and the Church is continuing in existence. If the reason for the disposal is that the Church has ceased then the provisions of the Ultimate Trusts (Clause 9) will apply.

7.3 The Holding Trustees shall hold any monies (or any investments made pursuant to these Trusts arising from a disposal) in their name.

The Trust Premises are legally held in the name of the Holding Trustees who will also hold the proceeds of sale upon the same trusts. The use of the money is dealt with in Clause 8.

8 PROCEEDS OF DISPOSAL

After taking Trustee Expenses from any money arising from a Disposal the Holding Trustees shall apply such proceeds for such of the following purposes as the Church may propose and the Holding Trustees approve namely

As noted under Clause 7.3 the proceeds of disposal of the Trust Premises will be paid to the Holding Trustees. The money will be available to the Church in accordance with Clauses 8.1 and 8.2 for purposes proposed by the Church and approved by the Holding Trustees. If the Trust Premises are a manse the Holding Trustees will urge the Church to bear in mind the importance to the Church of retaining the ability to purchase a replacement property so as to facilitate future ministry. If the Church want to use the money for other purposes the Holding Trustees may wish to consult the Association before making a decision.

8.1 In defraying such expenditure (whether of a capital nature or otherwise) incurred or to be incurred by the Church in connection with the charitable purposes of the Church, or

8.2 In defraying any expenditure (whether of a capital nature or otherwise) incurred or to be incurred in connection with such other charitable purposes of the Baptist denomination.

9 ULTIMATE TRUSTS

If at any time following the closure of the Church it shall appear to the Holding Trustees and the Union and the Association that the Trust Premises or any part of them are no longer required or can no longer usefully be retained for the purposes of these Trusts the Holding Trustees shall subject to any statutory restrictions for the time being in force have the power to Dispose of the Trust Premises and shall hold the net proceeds of sale arising from such Disposal in defraying any expenditure (whether of a capital nature or otherwise) incurred or to be incurred in connection with such charitable purposes of the Baptist denomination as the Union and the Association

This Clause will apply only if the Church has ceased to exist and there is no other ultimate trust relating to the Trust Premises in a Foundation Deed.

In those cases the Union and the Association will jointly decide on the use of the proceeds of sale. The money must be used for charitable purposes connected with the Baptist denomination.

may jointly determine PROVIDED however that these provisions shall not replace any ultimate trusts contained in any Foundation Deed.

10 INVESTMENT OF MONEY

If and so long as a Baptist Trust Corporation shall be a Holding Trustee or one of the Holding Trustees monies in the hands of the Holding Trustees not immediately required for the primary purposes of these Trusts may be invested in such manner as the Holding Trustees shall propose and the Church shall approve to the intent that the Holding Trustees and the Church together shall have the same full and unrestricted powers of investing in all respects as if the said monies were vested in an individual as absolute beneficial owner.

Money held by the Holding Trustees and not immediately needed by the Church will be invested as the Holding Trustees and the Church decide.

11 PROVISIONS IN MORTGAGES

In creating any mortgage under any of the powers of mortgaging herein contained the Holding 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 for the continuance of the loan for any term therein specified.

This is a technical legal requirement that allows money to be borrowed against the security of the Trust Premises.

12 THE TRUSTEES

12.1 Upon any professed exercise by the Holding Trustees of any power herein contained no person dealing with the Holding Trustees shall be bound or concerned to enquire whether:-

These are legal technical provisions protecting other parties dealing with the Holding Trustees.

12.1.1 the exercise thereof has been determined or authorised by the Church, the Association or the Union or otherwise.

12.1.2 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

12.1.3 notwithstanding any impropriety or irregularity whatsoever in the exercise of any such power that 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.

12.2 All Trustee Expenses shall be reimbursed to the Holding Trustees as appropriate.

These Clauses provide ways in which the Holding Trustees can obtain payment of their expenses from the Church.

12.3 If after the expiry of six months written

notice to the Church any Trustee Expenses shall remain due to the Holding Trustees, the Holding Trustees may (subject to any statutory regulations at the time being in force) Dispose of or let the Trust Premises or any part thereof in such manner as they may in their sole discretion determine.

12.4 Any balance remaining in the hands of the Holding Trustees after such reimbursement of the Trustee Expenses shall be applied in accordance with provision of Clause 8 hereof.

12.5 The power of appointing a new Holding Trustee shall be vested in the Church Meeting provided that if and so long as a Baptist Trust Corporation is one of the Holding Trustees no new or additional Holding Trustee shall be appointed without the previous written approval of that Corporation.

The Church Meeting can resolve to appoint new trustees. If a Baptist Trust Corporation is one of the existing trustees, it must be asked for consent.

13 DISPUTES

Sets out a procedure for resolving disputes between the Parties as to the meaning or effect of any of the provisions of these Trusts.

13.1 Should any issue as to the meaning construction or effect of any of the provisions hereinbefore set out pertaining to these Trusts arise between any two or more of the Parties and cannot be resolved by those Parties then such issue may be referred on application by any one or more of the Parties (but in the case of the Church or Church Members on application by not fewer than one tenth of the Church Members or five Church Members whichever number shall be the larger) for settlement by the Union (unless the Union is one of the Parties) whose decision (whether by the Union or by an Arbitrator or expert appointed by the Union) shall be binding and conclusive on those Parties and all other persons concerned or interested therein.

13.2 The Union may in its discretion decline to entertain any referral under this Clause if it does not consider the subject matter of such referral to be of a sufficiently serious or relevant nature as to call for its intervention. The Union may not override any validly made determination of a duly convened Church Meeting or of the Association in regard to the subject matter at issue when it shall appear to the Union that such determination was within the powers of the Church Meeting or the Association in regard to the subject matter at issue.

This Clause is intended to prevent trivial or irrelevant matters of dispute being referred to the Union.

This Clause protects the autonomy of a properly constituted Church Meeting.

14 ALTERATIONS TO TRUSTS

14.1 Subject as hereinafter mentioned it shall be lawful for the Church to request the Holding Trustee to revoke vary add to amend or alter any of the provisions of these Trusts except as far as

If a Church already having a Foundation Deed wants these Model Trusts adopted for the Trust Premises then, under the Baptist and Congregational Trusts Act 1951, the Model Trusts must be adopted in their entirety. In exceptional cases the Union may be willing subsequently to

they relate

14.1.1 to the provisions of Clause 9 hereof or

14.1.2 to the charitable status of these Trusts

14.2 No request of the Church under this Clause shall be effective unless or until the same shall have been submitted to and approved by the Union and given effect to by deed executed by the Holding Trustees.

agree minor amendments at the request of the Church Meeting except for those matters referred to in Clauses 14.1.1 and 14.1.2.

An agreed amendment to the Model Trusts for individual premises has to be incorporated into a formal Deed sealed by the Holding Trustees.

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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