

BUC GUIDELINES

C.24 Church Constitutions (04/2008)

These notes are offered as guidelines by The Baptist Union Corporation Limited to provide information for Baptist churches.

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. Contact details for churches who have The Baptist Union Corporation, The East Midland Baptist Trust Company Limited or The North Western Baptist Association (Incorporated) as their trustees are included at the end of this leaflet.

If your church property is in the name of private individuals who act as trustees they may also be able to help.

This is one in a group of three leaflets about local church constitutions.

- C.24 *Church Constitutions*
- C.25 *Using the Approved Governing Document*
- C.26 *Approved Governing Document*

If you are revising your church constitution please read all three leaflets.

THE EARLY BAPTISTS

A Baptist church is a group of people who are committed to advancing the Christian faith, by following Baptist principles. The first Baptist groups were not allowed to own land and buildings, but were united by shared beliefs and practices. The Declaration of Principle, that is the basis of union for our churches, mentions the importance of Holy Scriptures, and from the beginning Baptists tried to be consistent with the patterns reflected in the Bible.

Belonging to a Baptist church was not socially acceptable because everybody was expected to be a member of the Church of England. In this context, joining a Baptist church was a radical commitment. The earliest groups set out their beliefs in early documents called Covenants, which new members signed. These documents are an important historic record, but it is still important for Baptist churches to understand what they believe and how they want to work together.

The Bible contains clear indications of how the early church organised their life together. There are records of meetings, decisions, the formation of groups for specific tasks and information about the management of funds and money. Just as the early Baptist groups tried to shape their life together around their beliefs Baptist groups are still expected to consider scripture in discerning how the church should develop in response to contemporary circumstances.

PROPERTY AND TRUST DEEDS

It was not until the Toleration Act 1689 that Baptists could purchase land and construct buildings. Title deeds were prepared, and these often included information about how the land was to be used and how decisions about the property should be taken. It was usual to specify that the land would be used by a Baptist church with decisions about sales and purchases of property being taken by the Church Members Meeting. Although some early documents are comprehensive many lacked detail, or included eccentric or quirky provisions that were appropriate at the time, but are no longer convenient.

Some of the provisions in the trust deeds are very important and still have some legal effect. If you want to know more about this please refer to the guidelines leaflet B.1 *Church Trusts, Model Trusts and Property Trustees* for general information, but the information about your church will be unique and might need to be considered quite carefully.

THE DEVELOPMENT OF MODERN ARRANGEMENTS

Even the earliest Baptist churches worked in co-operation with neighbouring churches. There were local Baptist Associations and national networks. Early in the nineteenth century the Baptist Union was formed, but this was not the only group of Baptist churches. New opportunities to plant new congregations emerged with the growth of cities. There was a growing tendency to use standard arrangements within property deeds. These sometimes included a very basic church constitution. Over time one scheme was succeeded by the next until in the middle of the twentieth century documents called Model Trusts were promoted by the Baptist Union, and used as a convenient way to update old administrative provisions in property deeds, and create a framework for a local church constitution.

The Baptist Trusts for Churches 2003 represented a change of pattern in the preparation of Model Trusts. Instead of including a proforma list of detailed arrangements it included a list of the essential elements that should be included in a local church constitution. Instead of the arrangements for the property, and the arrangements for running the local church being combined, it was recognised that a separate constitution would be needed for the local church, its funds and activities.

MODERN CHARITY REQUIREMENTS

Forty or fifty years' ago it was almost inconceivable that a local church congregation would need to register with the Charity Commission. The overlap between the church's property trusts and its local patterns of organisation were so strong that churches tended to refer to the practical arrangements for calling church meetings, appointing ministers, electing deacons that were contained in the property trusts, supplementing these when necessary with local rules that explained the detail.

The 1993 Charities Act and subsequent changes in charity practice have created a situation where the local church needs to have its own constitution, which is a self-contained document, and describes the church, its activities and practices fully.

Although the basic proforma constitutions set out in the earlier Model Trusts such as the Fuller Trusts (promoted between 1951 and the 1960s) and the Fairbairn Trusts (promoted from the 1960s to 2003) were suitable at the time, they do not meet current needs.

Although many patterns of activity and practices are shared within Baptist churches generally they differ in their approach to details. There are some churches that meet as Cell Groups; others might meet on a week day evening, with others following the usual practice of gathering for worship on Sunday morning and evening, probably at 10.30 am and 6.30 pm. The older proforma constitutions contained in the Fuller or Fairbairn Trusts assumed that church members meetings would be announced at both of the Sunday services. This is just one example of arrangements that might need to be updated.

Problems sometimes arise where there are contradictions between the property trusts, a set of written local rules and informal practices. The need for a single comprehensive document to describe clearly the work, activities and organisation of the church is obvious. In addition changes in charity law mean that old constitutions are not adequate. In particular, there is a need to identify the people who have responsibility for running the church (which is a charity) and ministers will only be able to receive their remuneration from church funds if there is a specific provision in the church constitution allowing this.

BENEFITS OF HAVING A CONSTITUTION FOR YOUR CHURCH

A constitution should be a clear statement, helping to provide a framework for the church. It will enable routine decisions to be taken effectively.

A clear constitution enables everyone in the church to understand how the church functions, how matters are brought forward for discussion, who may take decisions and how that process should work. As the church constitution is an open document it enables everyone to understand the arrangements,

avoiding the potential problem of individuals being very familiar with church rules and regulations but not explaining them in a way that enables everybody to understand.

A constitution should also help new church members to understand the church, the activities it supports, its style and ethos, and how they can participate in the life of a church. The constitution should be a document that helps in this process, rather than being something they can only understand after they have been members for at least twenty years! Participating in church life should not require an individual to piece together snippets of information into some kind of organisational jigsaw.

Sadly there are occasions in church life where difficulties arise. If this happens it can be very helpful to have a clear framework for resolving the problems in a way that is clear and open, and which enable problems to be named, explored, considered carefully and decisions taken with the church being able to move forward in its work with confidence, knowing that the issues have been fully resolved.

IS THIS REALLY WHAT CHURCH IS ABOUT?

All communities need some accepted procedures and these need to be written down. Unless they are recorded clearly people tend to forget the details, and it is difficult for newcomers to understand.

A church constitution is a list of practical arrangements, but it must also reflect the aims and objectives of the church, and something of the style that is characteristic of the local Baptist church community.

A constitution does not make the church happen. It cannot create relationships and it cannot bring anybody to faith. However, it can express good practice in how we live together and help us understand the patterns that our church life takes. Our mission is more than the sum total of our paperwork. However, the church constitution is one aspect of that relationship between church members arising out of their faith in our Lord Jesus Christ, being worked out in everyday life.

We do hope that your church constitution will be helpful and enable the church community to function well.

ESSENTIAL ELEMENTS WITHIN A CONSTITUTION

The constitution is the formal way of stating how the church exists as a community. It must identify the name of the church, the purpose for which it exists and what it does. It will explain who can become a member of the church, and how members can participate.

Churches are charities and all charities need to be able to show that they offer a benefit to the public. An important part of doing this is having a constitution that describes the church, its purpose and activities. A constitution must include a 'Purpose' that is charitable, and describe 'Activities' that tend to be typical of the ways that charity would be able to demonstrate that they offer a Public Benefit. We have participated in consultations on Public Benefit, and detailed consultations about religious charities continue. We anticipate providing further detailed guidance on this.

It is important that a constitution identifies the people who have specific responsibility for the day to day management of the church, and in particular with responsibility for the legal and financial aspects of church life. Baptists tend to avoid using the word 'leaders' since they affirm the priesthood of all believers, and recognise that every member has an opportunity and a responsibility to contribute to the life of the church. However within Baptist churches there have always been individuals recognised for their spiritual and practical gifts who have taken the role of secretary, treasurer, deacon, elder or minister, sometimes together called a diaconate.

The Charity Commission tends to call the people who lead the work of a charity the 'Charity Trustees'. This is not a term we have often used in Baptist churches, but it is a useful phrase in describing those who have been set aside by the church members to carry responsibility for the activities of the whole church. As well as being set apart by the church to fulfil specific responsibilities, maintaining a relationship of accountability with the church members is essential. Maintaining this balance, particularly within a Baptist church is very important.

There are routine matters included in a constitution about convening church members' meetings, the dates when the annual accounts should be prepared and other day to day matters that are important,

but probably not very exciting. These need to be mentioned, but once a good routine is established that matches arrangements in the constitution everybody should be able to understand how the local church functions.

The constitution for a Baptist church will recognise that there are activities within the church for different groups. Individuals may be appointed to lead these groups, but they should be in relationship with the whole church, and accountable to it. Many churches run coffee shops or pre-schools. Whilst these are small or medium sized projects they are simply a church activity but sometimes large projects need to become a separate but related charity. This would need to be considered carefully, and no two situations would be the same (for further information sees C.11 *Pre-Schools* and C.22 *Churches and Coffee Shops*).

CHURCHES AND CHARITY REGISTRATION

It is anticipated that Baptist churches with an income of over £100,000 will need to register with the Charity Commission beginning in autumn 2008. For further information please refer to our guidelines leaflet C.16 *Churches and Charity Registration*. That will provide up-to-date information about the process.

Churches will need to complete an application form giving information about the church and its activities. They will also need to submit the church constitution. This needs to be a self-contained single document. It must include a framework for the effective management of a modern charitable organisation.

OUR INCOME IS LESS THAN £100,000 PER ANNUM - WE DON'T NEED TO BOTHER?

Churches whose incomes are under £100,000 per annum may think that they do not need to consider updating their church constitution but all charities should have a clear constitution.

Although churches with an income of less than £100,000 do not need to register immediately they still need a constitution that is suitable for modern purposes. We have outlined the advantages of having a clear document.

If you are a church that does not yet need to register, you are excused from the process of registering with the Charity Commission, and your church will not need to submit an Annual Return, Annual Report and Annual Accounts to the Commission.

Baptist churches with an income of less than £100,000 per annum will continue to be 'Excepted from Registration'. This is the same status that used to apply to all the churches. For more information please refer to C.16 *Churches and Charity Registration*, but please remember, that your church is a charity because of what it is and does, so just because you will not have a Charity Number this does not mean you are not a charity.

The Government intends that the threshold for registration will be progressively lowered, although this will not start until at least 2012.

It is still essential for you to prepare accounts in the appropriate form. If you need help with this please refer to F.6 *Guidance Notes for Church Treasurers on Charity Accounts with an income under £100,000*.

WE ARE A LOCAL ECUMENICAL PARTNERSHIP – WHAT ABOUT US?

The Charity Commission has recently clarified that Local Ecumenical Partnerships with an income under £100,000 per annum, that are not already registered charities, will have 'Excepted Status' until 2012.

It is likely that further discussions will continue with the Charity Commission and with other denominations about how the process of registration will be managed for Local Ecumenical Partnerships. An agreed approach will require discussion between the denominations, probably through the forum of Churches Together because their constitutions will not be the same as one for a Baptist church

APPROVED GOVERNING DOCUMENT

The Baptist Union of Great Britain has been involved in discussions with the Charity Commission because we have known that Baptist churches would need to register with the Charity Commission.

The discussions have led to a document that can be offered to individual Baptist churches. The Charity Commission called this an 'Approved Governing Document'.

When a charity seeks registration the Charity Commission will review the constitution they have submitted. Where there is an organisation with many similar local groups, offering a standard document is helpful. There are already standard documents that are suitable for other charitable organisations such as pre-schools, village halls and the Women's Institute.

We have agreed an Approved Governing Document for Baptist Churches.

There are two reasons why we thought this might be very helpful.

Firstly, we expect that churches will be approached by solicitors and accountants offering to help individual churches to prepare a constitution that will be acceptable to the Charity Commission on registration. Inevitably there will be a charge for doing this work. We hope that by providing an Approved Governing Document for Baptist churches this will mean less cost.

Secondly, although we have no doubts that others are capable of creating a constitution for a charity, we are less certain that they understand what is required for a Baptist church. They may produce a document that is acceptable for the local Cat Rescue Centre, but is not suitable for a Baptist church. For example, many charities appoint a management committee or board of trustees who nominate their own successors. In Baptist churches it is the church members who appoint individuals to take responsibility for the day to day management of the church. These are people who are chosen because of their spiritual qualities, character, and skills.

We have worked carefully with the Charity Commission to include arrangements that are suitable for Baptist churches that reflect our historic identity and current practice.

A document that has been negotiated nationally will not reflect all the features of existing local documents that have evolved separately over time. However, we think the document does include a framework that would be acceptable to most Baptist churches.

If you read the document and look for the pattern of activity and administration in your particular church, you will not find it. However, if you look at the document as a framework and seek to identify whether this is a pattern that you could work within, we think you will find that the proposed arrangements can be accepted.

Choices have been included within the document where we know there are variations in practice between different Baptist churches.

For example, we know that some churches permit husbands and wives or close relatives to serve together as part of the diaconate (or group of Charity Trustees). Other churches have decided that this is not helpful and have indicated that close relatives should not serve together. Both options are offered within the document so the pattern you have followed in your church can be selected and included.

DO WE HAVE TO USE THE APPROVED GOVERNING DOCUMENT?

It is anticipated that churches who choose to use the Approved Governing Document and need to register with the Charity Commission will find the process much easier. The Charity Commission will recognise the constitution submitted by the local church as a document they have already seen. The arrangements it describes will be familiar, and therefore the application process should be streamlined.

If a local church does not want to use the Approved Governing Document then they will still need to create a constitution that is acceptable to the Charity Commission, and meets the requirements of current charity law and practice. The document would then need to be reviewed individually by the Charity Commission, and the local church would need to work with the Charity Commission towards the

agreement of a final document that was suitable.

Further information about the way registration will be managed will follow, and this will be included in the C.16 *Churches and Charity Registration* leaflet, that will be kept up-to-date.

As the date for registration has been delayed until October 2008, we still have very limited information about the application process. It will require the completion of an application form, the constitution and the last year's accounts. Churches with an income over £100,000 should already be preparing accounts in the prescribed format, please see F.7 *Charity Accounts over £100,000*.

WORKING WITH THE APPROVED GOVERNING DOCUMENT

Two other guidelines leaflets are important:

C.25 *Using the Approved Governing Document*

C.26 *Approved Governing Document*

You will need to look at both leaflets and follow the guidance offered.

You need to consider carefully the choices offered to Baptist Union churches that choose to use the Approved Governing Document.

FUTURE AMENDMENTS

If your church uses the Approved Governing Document on registration it is possible that amendments will be needed, but probably not for several years. For example, the document asks churches to name those groups of people who have specific responsibility for the day to day management of the church. You may currently call these people the minister and deacons, but later you might wish to include elders, or decide to simply call this group 'the leadership team'. This kind of administrative change can be made.

However, once the constitution has been registered with the Charity Commission they will need to be involved if it is changed. They must be told about and agree to the changes. They will note on the Register of Charities that a new version is in use and until this is done the old provisions still apply.

There are some provisions in the Approved Governing Document that cannot be changed without the specific consent of the Charity Commission.

There are also provisions that are related to the identity of the church as a Baptist church. These cannot be altered without consulting with the Baptist Union of Great Britain and the local Baptist Association. The church should notify the Baptist Union of Great Britain and local Baptist Association of the proposed changes, giving six months' notice and allowing an opportunity for dialogue.

HOW DO WE ADOPT A NEW CONSTITUTION?

We recommend that you use the process of agreeing a new constitution as an opportunity to reflect on your present activities, organisation and administration. This could be a very positive experience if it is linked with teaching on the responsibilities of members, the dynamics of church members' meetings, the role of deacons and ministers, and describing not only the activities of the church but also reviewing its aims and vision.

A Special Church Members Meeting is usually required for amendments to a constitution. Adopting a new constitution will only require a formal and final decision at a Special Church Members' Meeting, but it is vital for there to be many opportunities for discussion and response before the final resolution is presented.

It is not appropriate for a lengthy document to be presented for adoption on short notice.

There are formal requirements for calling a Special Church Members' Meeting. It is usual to give notice on two previous Sundays at all services of public worship, with an indication of the nature of the business to be considered at the members' meeting. Although this may be appropriate notice for the

final meeting most churches will need to spend a lot of time talking about this before they are ready to consider a formal resolution to adopt the final document.

QUESTIONS

We realise there will be questions about the need for a constitution, the way you might want to update your old constitution and how the Approved Governing Document might be suitable for your church. We will try to answer your questions but you may also want to ask your local Baptist Association or Property Trustees.

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 Baptist Union Corporation Limited 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 at the Baptist Union Corporation, at Baptist House 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 Baptist Union Corporation staff also deal with churches that are in trust with the East Midland Baptist Trust Company Limited and the North Western Baptist Association (Incorporated).

If your holding trustees are one of the other Baptist Trust Corporations you must contact your own Trust Corporation for further advice.

If you have private trustees they too should be consulted as appropriate.

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