

Guideline Leaflet C09: Registered Charities and Public Benefit

Churches that are registered with the Charity Commission have to be able to demonstrate that their activities benefit the public. This leaflet explains the public benefit requirement and outlines what registered charities have to do to show that they provide public benefit.

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.

C09: Registered Charities and Public Benefit

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

The legal services undertaken by the Legal & Operations Team of the Baptist Union of Great Britain are carried out and/or supervised by a Solicitor who is authorised and regulated by the Solicitors Regulation Authority. Regulatory Information is available here:

[L17 Legal and Operations Team – Regulatory Information](#)

These notes can never be a substitute for detailed professional advice if there are serious and specific problems, but we hope you will find them helpful.

If you want to ask questions about the leaflets and one of the Baptist Trust Companies are your property trustees, you should contact them. They will do their best to help.

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

THE PUBLIC BENEFIT REQUIREMENT

As a result of changes which were introduced by the Charities Act in 2006 unincorporated Baptist churches with an annual income over £100,000 have to register with the Charity Commission. All CIOs (Charitable Incorporated Organisations) have to be registered, whatever their income level. Unincorporated churches with an income under £100k may now register voluntarily if they wish but are not obliged to do so.

It is a legal requirement that every organisation set up for charitable aims must first be able to demonstrate that its aims are for the public benefit. This is essential if it is to be recognised and registered as a charity in England and Wales.

Once registered, churches have to demonstrate and explain that the way in which they carry out their aims benefits the public. Churches may have heard about the concept of 'public benefit' through the media where the issue has been discussed at length, particularly with regard to fee paying schools.

The Charities Act 2006 removed the legal presumption that religious charities automatically provide public benefit. It is important for churches to understand from the outset that neither the Baptist Union nor the Charity Commission expect any Baptist church to have any difficulty in being able to meet the public benefit requirements for religious charities. Nevertheless, Charity Trustees do have a legal duty to read and consider the Charity Commission's published guidance on this issue. The Commission has written a number of publications but the key titles for Baptist churches are:

Public Benefit: the public benefit requirement (PB1): <http://www.charitycommission.gov.uk/detailed-guidance/charitable-purposes-and-public-benefit/public-benefit-the-public-benefit-requirement-pb1/>

Public Benefit: running a charity (PB2): <http://www.charitycommission.gov.uk/detailed-guidance/charitable-purposes-and-public-benefit/public-benefit-running-a-charity-pb2/>

Public Benefit: reporting (PB3): <http://www.charitycommission.gov.uk/detailed-guidance/charitable-purposes-and-public-benefit/public-benefit-reporting-pb3/>

The Advancement of Religion for the Public Benefit, which offers supplementary guidance for religious organisations:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/358531/advancement-of-religion-for-the-public-benefit.pdf

However this guidance does not form part of the statutory guidance (PB1-PB3) to which trustees must have regard and is currently being reviewed by the Commission.

Charity Trustees must be able to show that:

- they are aware of the guidance in PB1-PB3;
- in making a decision where the guidance is relevant, they have taken it into account and
- if they have decided to depart from the guidance, they have good reasons for doing so.

Reading this leaflet is not sufficient! Trustees must read the Charity Commission guidance itself.

REPORTING REQUIREMENTS – THE ANNUAL REPORT

Baptist churches that have registered with the Charity Commission are required to submit an annual report and accounts to the Commission once a year, after the church's financial year has ended. Churches have a period of ten months from the end of their financial year in which to submit this information to the Commission and are strongly encouraged to ensure that this deadline is met. The Commission takes a dim view of charities who fail to meet their reporting obligations, which are not unduly onerous, and highlights late or missing submissions on its website.

The annual report needs to include a section on how the church's activities have provided public benefit. The Charity Commission has provided an example annual report for 'St Emilion's Church' on its website. This can be found here, under 'Parochial Church Council: example trustees' annual report':

<http://www.charitycommission.gov.uk/media/89124/arstempb.pdf>

The Charity Commission publication *CC15c Charity Reporting and Accounting: The Essentials* contains helpful information and can be found here:

<https://www.gov.uk/government/publications/charity-reporting-and-accounting-the-essentials-march-2015-cc15c>

Churches should also refer to the guideline leaflet F05 *Preparation of Annual Reports* which is available on the BUGB website.

The annual report must include:

- an explanation of the activities undertaken by the charity to further its purposes for the public benefit and
- a statement by the trustees as to whether they have had regard to the Commission's guidance on public benefit.

This is known as 'the public benefit requirement'. Churches should ensure that they include:

- a statement of the charity's purposes
- a summary of the church's activities and
- an explanation of how the activities led to benefit for the charity's beneficiaries.

THE REPORT AND THE CHURCH ACCOUNTS

This leaflet emphasises the public benefit requirements but it is worth noting that there should be some relationship between the annual accounts and the annual report. If a church has explained that they achieved their aims primarily through providing worship services and teaching for young people it would be reasonable for their expenditure to reflect those priorities. If the church has a Minister who leads services or teaches the Christian faith the costs of ministry are likely to be one of the major expenses

for the church. Some relationship is expected between the priorities, aims, and activities described in the report, and the way the church's charitable income is used.

A PROBLEM OR AN OPPORTUNITY?

The need to report annually on public benefit can be a positive requirement for churches since it offers an opportunity to review how effectively the church has been serving its congregation and its local community.

The level of detail trustees must provide will depend on whether their church is above or below the audit threshold. Under the Charities Act an audit is required when the charity's gross income in the year exceeds £1 million or when income exceeds £250,000 and the aggregate value of its assets exceeds £3.26 million. For churches below the audit threshold, trustees must include a brief summary in their Trustees' Annual Report of the main activities undertaken explaining how these furthered the charity's aims for the public benefit. The summary should also confirm that the trustees have had regard to the Commission's public benefit guidance.

For churches above the audit threshold trustees must provide a fuller explanation in their Trustees' Annual Report of the significant activities undertaken in order to carry out the charity's aims and how these have been for the public benefit. The church should also refer to its aims and strategies. They must explain the charity's achievements, measured by reference to the charity's aims and to the objectives set by the trustees. It is up to the charity's trustees to decide how much detail they want to provide to clearly illustrate what their charity has done in the reporting year to meet the requirement. The Commission will not be prescriptive about the number of words or pages needed but a church that said nothing on public benefit in its Trustees' Annual Report, or produced only the briefest statement with no detail, would be in breach of the public benefit reporting requirement.

THE ADVANCEMENT OF RELIGION

Most Baptist churches that have registered with the Charity Commission have used one of the Baptist Union Approved Governing Documents, the wording of which was agreed by the Commission in advance.

The church's aims are found in the Purpose clause which says:

The principal purpose of the Church is the advancement of the Christian faith according to the principles of the Baptist denomination. The Church may also advance education and carry out other charitable purposes in the United Kingdom and/or other parts of the world.

The principal object of a Baptist church is described in the first sentence. In charity law this is termed 'the advancement of religion'.

The second sentence simply provides the flexibility for churches to undertake other charitable activity with alternative charitable aims. For the purposes of charity registration and public benefit reporting the Commission will expect Baptist churches to focus on 'the advancement of the Christian faith according to the principles of the Baptist denomination'. They have already agreed that this charitable objective, purpose, or aim is capable of meeting the public benefit test.

DEMONSTRATING A PUBLIC BENEFIT – BAPTIST CHURCHES

Historically Baptist churches have been charitable because they advance religion. Case law indicated that the provision of a public service of worship was itself sufficient evidence of public benefit.

We recognise that many churches are also involved in community projects but we strongly encourage churches to focus on the advancement of religion as the primary reason why they are charitable.

We encourage every church to state in the annual report, at the top of any list, that they offer a public service of worship. Larger churches may be able to include other evidence but we want to preserve this

as the primary focus, not least for the benefit of smaller churches whose range of activities may be less varied, but no less valuable.

We are sure that Baptist churches have been, and continue to bring benefits to the wider community. The helpful influence of churches and other religious institutions has been recognised for centuries. This is why their activities were presumed to be 'for the public benefit' in law. A limited number of other organisations also had this privilege, for example schools.

All charities need to be able to explain why they exist and how the things they do offer a public benefit. However, charities that are registered with the Charity Commission have a particular responsibility to formally explain how they offer a public benefit, usually in their annual report. This does not mean other charities can forget about ensuring they benefit their communities, it is just that a formal report is not seen by the Charity Commission and wider community.

The Charities Act 2006 removed the presumption of public benefit from all charities but created an expanded list of useful activities that were capable of being charitable and for the public benefit. The advancement of religion was one of the new categories. Other areas of recognised charitable activity included the advancement of education, citizenship or community development, animal welfare, arts, culture, heritage and science (the full list is quite long). Like all other charities they need to meet the requirements on Public Benefit and Reporting.

AN IDENTIFIABLE BENEFIT

To meet the public benefit requirements, it must be clear what the benefits are and these benefits must be related to the church's aims. The Charity Commission accepts that some of the benefits that a church provides are not tangible and could be difficult to identify but a public benefit assessment can still take these intangible benefits into account.

The Commission has provided examples of the ways in which advancing religion has the potential to be for the public benefit:

- the provision of sacred spaces, church buildings and worship services;
- the provision of public rituals and ceremonies;
- contributing to the spiritual and moral education of children;
- contributing towards a better society for example by promoting social cohesion and social capital;
- carrying out, as a practical expression of religious beliefs, other activities (such as advancing education or conflict resolution, or relieving poverty), which may also be charitable;
- contributing to followers' or adherents' good mental and physical health; aiding the prevention of ill health, speeding recovery and fostering composure in the face of ill health;
- providing comfort to the bereaved;
- healthcare and social care.

It is not necessary for a church to demonstrate all of the types of benefit listed above. The Commission has indicated that it may be sufficient to demonstrate just one benefit.

THE BENEFIT MUST BE TO THE PUBLIC

The Charity Commission guidance contains a lot of detail about the need for the benefit to be available to the public, or a significant section of the public. Baptist churches should not have any difficulty. Most events are not restricted and the fact that many churches invite only their members to attend the Church Members' Meeting is not a problem. The restricted invitation to events designed for a particular group, such as children, young people or a Men's Breakfast does not cause a problem either.

The Commission understands that Ministers will receive a private benefit as a result of their role. This will include the usual payment of remuneration for their services and the provision of accommodation. This does not give rise to a problem unless the private benefits become unreasonably excessive.

The Commission also recognises that Charity Trustees benefit from their church's work. A Baptist church member and Charity Trustee must be able to participate and receive the general benefits of belonging to the church that are available to everybody else. The Charity Commission is not concerned about social or spiritual benefits to trustees as beneficiaries of the church but there are very clear restrictions on personal financial benefits for charity trustees and their families.

However, the opportunity to benefit must not be unreasonably restricted by geographical or other restrictions or by an inability to pay any fees charged. People 'in poverty' must not be excluded and any 'private benefit' must be incidental. However, the Commission also understands that many Baptist churches encourage their congregations to make regular payments to the church. This will not affect the church's ability to demonstrate its public benefit unless there is any pressure, covert or otherwise, put on individuals to pay regardless of their ability to do so.

The actual number of people who benefit can be quite small provided that the opportunity to benefit is available to a sufficient section of the public. A Baptist chapel situated in a sparsely populated area might only have a single figure congregation because of its isolated position. Provided that the services are open to anyone who wants to attend, this small number would not mean the church would automatically fail to meet the public benefit requirements.

The Commission does not expect a church to be open at all times but does expect adequate provision to be made to inform people when they can enter the premises. An external notice advertising the times of services is sufficient. Our conversations with the Commission have suggested that the availability of public services of worship is by itself enough to prove that the church provides public benefit.

PUBLIC OPINION

It is not relevant for the purposes of charity law whether the substance of religious doctrines can be proven to be true. The Commission will not make subjective or value judgements about the truth or worth of the Christian religion.

However, the Commission's approach to decisions about what is charitable, and what is or is not for the public benefit, will be informed by what is relevant and appropriate for current social and economic circumstances. This has long been part of the recognised approach of the Charity Commission and the Courts. We do not think this need cause undue concern to Baptist churches.

Neither the Commission nor the Courts have the remit (or the desire) to change or try to modernise long-held religious beliefs. It is not relevant when assessing public benefit whether some might regard certain religious beliefs as old-fashioned or out of step with the views of many others in society. What matters is that an organisation's aims, and the way in which it carries out those aims are, demonstrably, for the public benefit.

Charitable status is not decided on the basis of public opinion. The Commission recognises that in many areas, including religion, opinions can be divided. The fact that some members of society do not agree with particular religious beliefs, or do not support certain religious practices, does not in itself mean that the aims of an organisation advancing the religion concerned will not be for the public benefit.

DETRIMENT OR HARM

In assessing the public benefit of an organisation's aims the Charity Commission has to take into account any detriment or harm that may flow from the organisation carrying out its aims. An organisation's public benefit will be affected where there is evidence of significant detriment or harm from what the organisation proposes to do, or practices, which outweigh the benefits of the organisation carrying out its declared charitable aims.

It is difficult to envisage that many Baptist churches could be affected by this but there are implications for churches who are involved in activities overseas.

In some countries it is illegal to proselytise. Detriment or harm might occur where the carrying out of the charity's aims in a country where it is illegal to do so might:

- expose the charity's staff and volunteers to harm, including risks to their personal safety or liberty, for example where staff or volunteers are exposed to risks of arrest and imprisonment (even where the staff and volunteers choose to work in areas of risk whilst knowing of the risks involved); or
- stir up conflict within the country they are working in, possibly endangering the lives of their proposed beneficiaries, for example, disseminating religious literature in a country that is experiencing religious conflicts where that would further inflame the conflict.

The Commission's guidance is as follows:

In cases where there is a risk that an activity contemplated by the trustees in a foreign country will be subject to local legal challenge, the trustees should assess the extent of the risk that they would be running and the extent to which that risk could be removed or reduced. In these situations, the trustees should consider extremely carefully what course of action will be in the best interests of the charity using both their knowledge of local conditions and the needs of their beneficiaries. They would need to take appropriate legal and other advice. Finally they should balance the benefits of carrying out that activity against the dangers and disadvantages, including the potential human, financial and reputational cost, of doing so.[END]

| 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

Date Reviewed: March 2023

Date of Issue: March 2023