

Guideline Leaflet T04: Ultimate Trust – Recycling Money for Mission

There are positive ways property can be recycled if a local Baptist church closes. Ultimate Trusts are the statements in legal documents about how funds should be used after a sale. This leaflet explains how they can enable funds to be re-used for mission.

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.

T04: Ultimate Trust – Recycling Money for Mission

WHAT IS AN ULTIMATE TRUST?

An Ultimate Trust is the written instruction, usually given by the founders of the church, stating what should happen if the church closes. These are often stated in an old document called the Foundation Deed, often also called a Trust Deed. This may state that, for example, any funds from the sale of the property are to be paid to another organisation like the Baptist Building Fund. It may state that a decision on the use of the funds is to be made by the Church Members at their final meeting. It may not state any arrangements at all. Where there is an arrangement specified it is binding on the present members and the Property Holding Trustees.

BAPTIST PROPERTY OWNERSHIP AND ULTIMATE TRUSTS

Early Baptists were a persecuted group and were not allowed to own property. When they were permitted to buy the land it was necessary for the legal title to be held by Property Trustees. Many early title and Trust deeds contain a full statement of the purposes for which the property should be used but many other documents contain very little detailed information at all. Many early documents did not contain a statement indicating how the assets should be used if the church closed.

It is reasonable to assume that there were some problem cases where the Property Trustees of a church building that was no longer required applied the money inappropriately. This led to the inclusion of a statement called an Ultimate Trust in new Trust Deeds. This required the Property Trustees to use the money arising from the sale of a closed church for particular purposes. Typical examples would be the requirement to use any sale proceeds in accordance with the wishes of the last remaining male members of the church, for some civil or religious or philanthropic purpose, or for the benefit of a nearby Baptist Church. It was common for neighbouring Baptist churches to contribute towards the costs of purchasing a new site for a Chapel so it was reasonable that they benefitted if the church closed.

At the start of the nineteenth century there was a tendency for more individual charities to be nominated and gradually a change happened. Baptist charitable groups were being formed to assist churches with property purchase and building construction. When a grant was made these charities either required that the Ultimate Trust nominated their charity as a beneficiary, or this was done by the local congregation out of gratitude for the help that they had received. The Particular Baptist Fund is more frequently named in documents that are prepared between around 1820 and 1850, with other charities being nominated in other cases. By 1850 there was significant building work in the newly created suburbs and the Baptist Building Fund had been formed to support local Baptist Churches. From 1850 to the end of the nineteenth century many churches nominated the Baptist Building Fund either as the body to receive funds, or the body which is empowered to take decisions about the use of the funds in the event of a church closure.

At the start of the twentieth century the Baptist Union, which had by then promoted its own form of Trust Deed begins to be nominated. By the 1940s the trend changes again so that the Baptist Union and the local Baptist Association are nominated as the decision makers in the event of a church closure particularly so far as the use of the assets are concerned.

The Baptist and Congregational Trusts Act 1951 had various uses. It included the power to promote nationally produced standard Model Trusts. These could be used for new churches or newly purchased sites or to update the trust arrangements for an existing church. The basic Ultimate Trust in these Model Trusts indicated that decisions about the use of the property or funds would be taken jointly by the Union and Association. This would automatically apply to new churches adopting these trusts for a

newly purchased site. Where established churches updated their older or inadequate trusts by adopting the Model Trusts to sit alongside older trust deeds the standard Ultimate Trust would apply, unless something was already included in earlier documents.

For more information about Baptist Trust Deeds please refer to our leaflets:

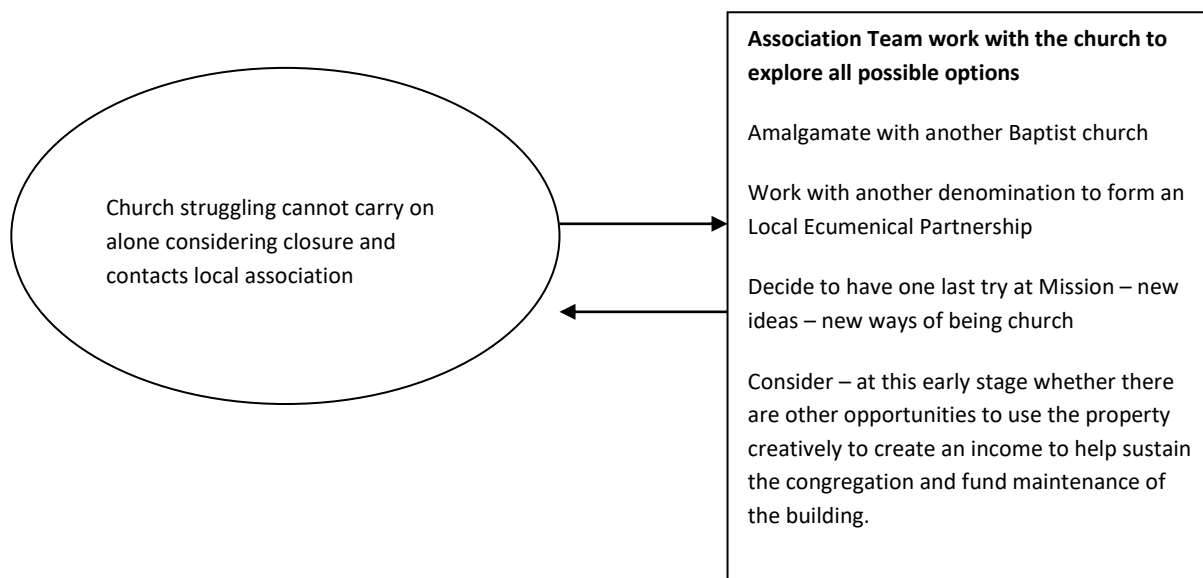
T01 *Baptist Property Trusts – Beginnings and Patterns*

T02 *Modern Model Trusts*

CHURCHES AND NEW OPPORTUNITIES FOR MISSION

The purpose of all organisations within the Baptist Union is to be part of God’s Mission. We would always encourage churches that are in difficulties to seek help from their Association or Property Trustee. There are often opportunities to avoid closure of a church including fresh approaches to mission, restructuring, amalgamation with another Baptist church or becoming part of a Local Ecumenical Partnership.

Opportunities to Avoid Closure



CLOSED CHURCHES – DIFFICULT DECISIONS

Where a local Baptist church feels it is time to close we ask you to read the leaflet L07 *Church Closure*. Following the process outlined in the leaflet will help the remaining Church Members to deal with essential practical matters and decisions.

Where there is no stated Ultimate Trust, or where the Ultimate Trust requires a decision to be made by the last remaining members it is important that these issues are considered during the concluding Church Members’ Meetings (there will often need to be a series of meetings before final closure).

It is important that these details are checked very carefully and time allowed for decisions to be made.

NO STATED ULTIMATE TRUST?

Where there is no stated Ultimate Trust in the Trust Deed (or Foundation Deed) for the church and Model Trusts have not already been adopted there are helpful decisions for Church Members to consider.

If there is no stated Ultimate Trust and no further decision is made by the Church Members it will be necessary to consult the Charity Commission about the use of money from the sale of church property. Whilst they may often decide that money can be used locally there may be restrictions about how money can be used.

An alternative is for the church to ask their Property Trustee (assuming it is one of the Baptist Trust Corporations) to declare Model Trusts. The current Model Trusts are the Baptist Trusts for Churches 2003. Adopting these trusts will fill in the gap in earlier documents. The standard 'Ultimate Trust' will be added giving the Baptist Union and Local Baptist Association the responsibility to decide how money from the sale of church property should be used.

The members could express their wishes about the way money might be used but the decision will rest with the Union and Association.

CLOSING CHURCHES – LOCAL RESPONSE AND LOCAL INTEREST

Local residents – who may have had no interest in the church before will become concerned about the future changes and again this needs to be managed carefully. The church may also be approached by other charities or small businesses hoping to use the building. They may perceive this empty building as an opportunity to obtain cheap accommodation!!

However, renting out the property can leave the Association or Holding Trustee with an ongoing management or maintenance responsibility that may prove to be onerous in the long term. The net result can be a delay in selling the building and releasing the funds to be used for other projects.

Charity law requires the Property Trustees to act in the best interests of their charity and to make the best possible use of assets. Charity law usually requires property to be sold for the best price within a reasonable timescale so obtaining a Surveyor's Report and following the recommendations on a sale will be important.

It is often difficult for church Members to say 'No' to an approach, particularly from another Christian group. Refusing use of an empty building can seem narrow, inflexible and ungenerous. However, saying 'Yes' to them in effect means saying 'No' to the release of resources to other Baptist projects – and other new Mission opportunities.

The church's Property Trustees will be able to offer help and support.

RECYCLING BAPTIST RESOURCES – THE SYSTEM AT ITS BEST!!

There are many opportunities for buildings and money to be used for Mission.

When a church has closed, the local Trust Corporation or the Baptist Union Corporation will consult with the local Association – if this has not already happened.

Sometimes there is a genuinely 'good idea' for the use of the building for another Baptist purpose. Where this is permitted under the trusts then this can sometimes be arranged and a sale is delayed, often indefinitely. **The building is recycled.**

Retaining the building after the Church Members have decided to close the church may need the consent of the organisation with the benefit of the Ultimate Trust. They will need to be convinced that the proposal is viable. Their decision will often depend on the exact wording in the old Foundation Deed. The decision will depend on their own circumstances and the views of their trustee body. Consent should not be assumed – even from an organisation with 'Baptist' in the title.

Where the Ultimate Trust is in favour of the Baptist Union of Great Britain we would take very seriously any proposal from the Association to use the building for an alternative purpose – especially if this is self supporting financially, with a clear Mission opportunity.

If the property is sold, depending on the arrangements under the Ultimate Trust, funds can often find their way back into the Baptist system. **The funds are recycled.**

Sometimes the Ultimate Trust states a particular use for the money. This is not always to a body that is associated directly with the Baptist Union of Great Britain. This does not recycle resources into the funds of the Baptist Union or our Associations but we can often be content because another Mission focused organisation has benefitted.

If the church closes without consultation and there is no clearly defined beneficiary under the Ultimate Trust, long consultation can be required with the Charity Commission to resolve the use of the money. This may not result in as much flexibility as some of the other options where there is discretion for the Union and Associations.

DEBTS, BILLS AND THE BAPTIST MINISTERS' PENSION SCHEME

When a church closes and property is sold the Property Trustees have a responsibility to pay debts and bills. There may have been a mortgage on the property, a grant that is repayable, or loans.

Depending on circumstances some churches may need to make payments from their local funds and the sale proceeds of church property to the Baptist Ministers' Pension Scheme. It is important to check the details with the Pensions Team at Baptist House. This Scheme has operated for many years and provides support to Ministers and their families.

LOTS OF OPPORTUNITIES TO RECYCLE MONEY

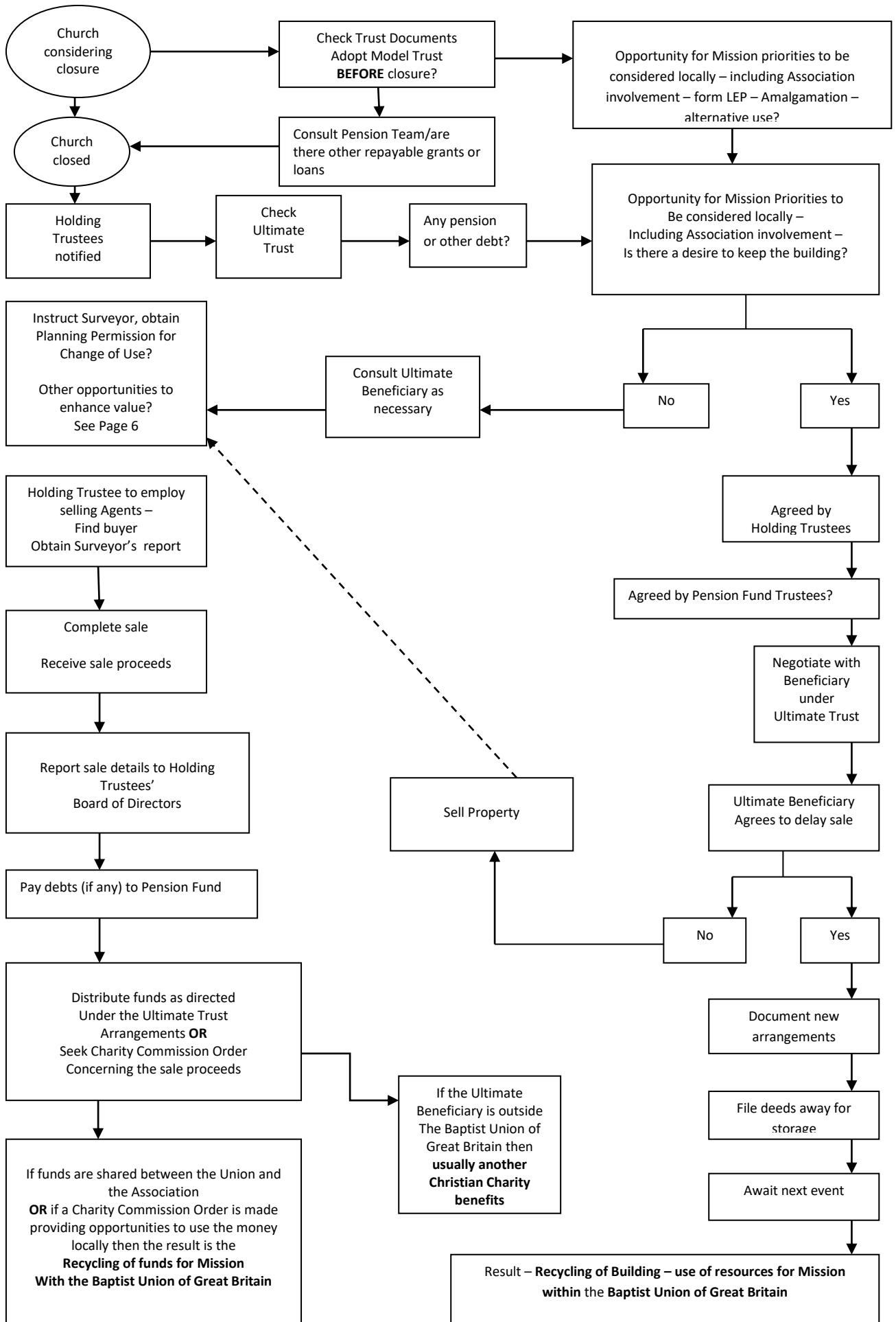
If the church decides to amalgamate or to become part of a Local Ecumenical Partnership the mission of the local church continues.

There is a separate leaflet L04 *Church Amalgamation*. An amalgamation may need to be checked and agreed by the beneficiaries under the Ultimate Trust, various solicitors, and the Pension Team but they can work well.

Even where money is payable to an outside charity nominated by the founders of the church they will almost always be using it for charitable and mission purposes. The Baptist Building Fund and Particular Baptist Fund still give loans to churches that are doing building work or buying new property – continuing to help churches in their mission.

If the Ultimate Trust indicates that the Baptist Union or the Association and Union may take decisions that the money will still be used for mission.

So to present the information in a slightly different form.



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 of Issue: June 2013