Guideline Leaflet C12: Using the Charitable Incorporated Organisation Precedent Document

A CIO (Charitable Incorporated Organisation) is a new form of legal structure that is available to charities that want to incorporate. A precedent governing document for a CIO is available from the BUGB solicitors. This leaflet offers information on using that document and explains the wording of individual clauses.

In June 2021 the Charity Commission agreed to add new and amended optional clauses to our CIO Approved Governing Document to provide for virtual and hybrid church members' meetings. This leaflet has been updated to include these new and amended clauses which are: 13.3.3; 13.6.4; 13.12; 14.8.

In July 2025 the Charity Commission agreed further amendments to our document which were needed to reflect changes that they made to their own model CIO constitution. These mainly relate to the various statutory definition of 'connected person'. The affected clauses are 8, 9, 23, 31.2, 31.4 and 33.5.

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.

C12: Using the Charitable Incorporated Organisation Precedent Document

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.

INTRODUCTION

The Charities Act 2006 created the legal framework for a new kind of incorporated structure for charities called a Charitable Incorporated Organisation (CIO). Further detail was added when the Charitable Incorporated Organisations (General) Regulations 2012 were prepared which came into force on 2 January 2013.

Many local Charities, including Churches, have traditionally organised their activities as Unincorporated Associations. These groups are flexible but lack the capacity to enter into legal contracts using the name of the organisation. The technical explanation is that they do not have 'legal personality'.

For many years larger organisations have operated through companies or corporations. Instead of individual people having to represent the organisation, contracts, property purchases and other activities can all happen in the name of the organisation itself.

Limited Companies have a significant benefit called limited liability. This means that the Directors of the Company do not become personally liable if the Company has debts or other liabilities. This is a big advantage. However, Directors are not allowed to be reckless so there are tight rules about the way a Company can operate and the Directors' powers are limited by law, they cannot trade when the Company is insolvent and there are many other legal and administrative requirements.

For various reasons a Charitable Company structure is not ideal for a local Baptist Church. This is explained in more detail in guideline leaflet C11 *Churches, Charities and Incorporation*. Some of the disadvantages are related to voting methods and the procedure at meetings. Limited Companies that are also charities need to report to both Companies House and the Charity Commission.

In contrast Charitable Incorporated Organisations (CIOs) offer more flexibility in terms of procedures and only report to the Charity Commission, whilst still having the benefits of limited liability.

In an effort to help churches the Baptist Union has prepared a precedent constitution for a Charitable Incorporated Organisation. The notes in this leaflet are designed to be read alongside that document. Please see the section below 'Obtaining a copy of the Document' for details of how to obtain the precedent. Our CIO constitution has been accepted by the Charity Commission as one of their approved governing documents.

Churches need to consider carefully the kind of structure that best suits them. A Charitable Incorporated Organisation may be the obvious choice for a new church and other churches may also choose to change their structure now that the CIO option is available to them.

We have never felt confident in recommending a Company structure for Baptist Churches because we believe there are difficulties in balancing the requirements of Company Law with the core characteristics of a Baptist Church. We think that the structure of a Charitable Incorporated Organisation is better.

It has been easier to create a precedent document for a CIO that resonates more closely with Baptist patterns of church life. We can never claim that any document we prepare is perfect but this is a document that many churches may wish to use as a basis for creating a new governing document and structure for their church.

The organisation will have the benefit of a legal personality and will be able to hold property in its own name.

Within our document we have assumed that the Church Members' Meeting will continue to play a significant role in discerning the mind of Christ within the local church. There are certain key decisions that are reserved to the Members, particularly relating to the appointment of the Charity Trustees, Minister, Church Membership, and property.

OBTAINING A COPY OF THE DOCUMENT – CHARITABLE INCORPORATED ORGANISATION

The precedent document is available free of cost to Baptist Churches from:-

Anthony Collins Solicitors LLP
134 Edmund Street
Birmingham
B3 2ES

Tel: 0121 200 3242
Fax: 0121 212 7442
DX 13055 Birmingham 1

Website: www.anthonycollins.com
Email: esther.campsall@anthonycollins.com

The precedent CIO constitution is issued under copyright licence and you will be asked to agree to the terms of the licence on behalf of your church before the document is sent to you. **It is important to note that under the terms of the licence no amendment may be made to clause 31.5 or any of the clauses referred to in clause 31.5 without written consent. Applications for such consent should be sent by email to Justine Higgin at jhiggin@baptist.org.uk.**

THESE NOTES

These notes work through the precedent document for a Charitable Incorporated Organisation that can be obtained from Anthony Collins Solicitors LLP.

DISTRIBUTION – WHY CAN'T WE DOWNLOAD THE DOCUMENT?

We have arranged the distribution in this way to ensure that churches receive some basic information about the processes involved. It is important that careful consideration is given to appointing solicitors to help with the adoption of the incorporated framework for a Baptist Church and the subsequent transfer of assets and liabilities.

There are some very important issues to consider which are described in more detail in guideline leaflet *C11 Churches, Charities and Incorporation* but remember each church will be different, so the list of issues needs to be considered carefully in relation to local circumstances.

USING THE DOCUMENT

These notes are about using and understanding the draft document. Unlike the Approved Governing Document for unincorporated churches, there are fewer choices within the precedent document for a CIO. This is partly because of much stronger requirements in the CIO regulations for the documents to be in a particular format and to contain particular information.

Wherever possible we used the wording from the Charity Commission's draft document. Our solicitors helped us and we offer this precedent to churches to be used as the basis for a CIO constitution. We are confident that the document will help churches considering becoming a CIO to find ways to balance legal and Charity Commission requirements with the patterns of activity within Baptist Churches.

For an existing church, making the change to a CIO needs particular care, especially where the church has existing employees, contracts and financial obligations. All existing churches need to seek independent legal advice in order for the assets and liabilities of the existing church to be properly transferred over to the new CIO.

We will try to explain why the suggested arrangements have been included in the document.

These notes are not a guide to running a CIO or to the regulations that apply. We do not include comments on every clause in the precedent document.

OVERALL STRUCTURE

The Charity Commission has produced two precedent CIO constitutions. One is for a CIO where the only members are the charity trustees (the 'foundation model') and the other makes provision for a wider membership where there can be members of the organisation who are not charity trustees (the 'association model'). We have based our document on the association model but have reshaped it so that it is more suitable for a Baptist Church. We would expect any Baptist church or Baptist pioneering project to want to use the association model as the basis of their CIO constitution. This is because the alternative, the foundation model, does not provide for members to join the CIO and to take an active role in decision making in accordance with Baptist principles of congregational church governance.

In our precedent document we begin by describing the name of the church, its location, purpose, belief, activities and affiliation. The next section contains some technical clauses about applying the income of the church towards the achievement of its purpose with further technical clauses about benefits to Charity Trustees and any members of their family or business partners. There is also something about conflicts of interest and an indication that members of the church won't have any financial liability if the church closes. There is an alternative arrangement in the Charity Commission precedent and we will add extra comments later.

The next section is about the membership of the church, the admission of individuals as Church Members, their roles and the maintenance of the membership list.

The next section is on the Church Members' Meeting. It includes information about taking decisions and the distinction between Ordinary and Special Church Members' Meetings. We have tried to reflect the spiritual and practical nature of Church Members' Meetings as a way of encouraging the community that is the local members of the Baptist Church to have creative meetings, recognising that this is an opportunity for them to gather together, to work in useful ways to make good plans for the life and work of the church. There is a balance to be maintained because the Charity Trustees, as in an Unincorporated Association, have important legal and financial responsibilities, but we wanted to reflect the very positive opportunities that a Church Members' Meeting can offer to a local Baptist Church.

The Church Members' Meeting has responsibility for appointing Charity Trustees so this is the next section within the document. There is scope for the church to appoint a Church Secretary and Church Treasurer and different options are available to achieve this.

There is obviously an important role for Ministers and they are mentioned in section 16.

As the Charity Trustees have important responsibilities there is more information about the way they

should work together in sections 17 to 22.

Sections 23 to 25 are technical provisions designed to ensure good practice and to overcome problems if a mistake occurs.

We will explain sections 26 to 30 later.

Section 31 is about amendments to the Constitution.

Section 32 is about winding up or closing the church.

Section 33 is a technical clause about the interpretation of the various terms used in the document.

Section 34 deals with the possibility of postal voting (although this is not recommended).

Section 35 is about the use of electronic communication.

Whilst we have made every attempt to create language that is as straightforward as possible we recognise that in a world of law and regulations the document is still quite technical. The purpose of the document is to give legal identity to the Charity (local church). This creates opportunities and responsibilities. The Charity Trustees of any CIO have responsibilities that are outlined in the various Charities Acts and in the Regulations that apply to Charitable Incorporated Organisations. The problem of personal liability can be eased by forming a CIO but this is not an opportunity to be reckless or careless. Charity Trustees need to understand their legal and financial responsibilities for leading the charity, as well as dealing with issues of strategy and the effective use of the charity's assets towards the local church's mission.

Your final document should not include any square brackets [ ]. As a matter of legal drafting square brackets indicate where choices need to be made or wording is optional.

THE LEGISLATIVE FRAMEWORK

The key pieces of legislation relating to Charitable Incorporated Organisations are:-

The Charities Act 2011.

Charitable Incorporated Organisations (General Regulations 2012) Statutory Instrument 2012 No. 3012.

The Charitable Incorporated Organisations (Insolvency and Dissolution Regulations 2012) Statutory Instrument 2012 No. 3013.

NOTES ON THE CLAUSES

1 The Church and Its Name

You need to insert the name of your church. Please note that if the name is subsequently changed, and your church is already registered with the Charity Commission, their consent will be required.

What will the organisation be called? Any reasonable name is acceptable but it is important to ensure that you do not use somebody else's registered trademark. The name should not be one that is easily confused with another organisation. The choice of name will also need to be agreed with the Charity Commission when the CIO is registered. Some charities have both registered and working names recorded on the charity register because they are known by more than one name. The Charities Act 2011 gives the Commission power to delay a registration and direct that a registered or working name is changed if it is the same as or, in the opinion of the Commission, too like the name of any other charity (whether registered or not). A charity's registered name is the one that is recorded in their constitution.

If you are engaging in trading activity and have identified an innovative and unusual name you may want to consider protecting it as a trademark. This is a complicated area of law and specific legal

advice may be needed. It is often the name and the graphics used in any logo or publicity material that is protected rather than the actual words or title themselves.

Please view the Intellectual Property Office website http://www.ipo.gov.uk/tm.htm and check that the proposed name has not already been registered by somebody else. If it has then (apart from certain exceptions) it is their property and it would be best to choose another name. Using a name that has been registered can lead to a legal claim for damages from the person who has already registered the trademark, or result in a demand for a substantial annual licence fee.

2 National Location of Principal Office

This is fairly straightforward, you will need to indicate whether your CIO has a Principal Office in England or Wales.

3 Purpose

This is a fundamental clause and has been carefully negotiated with the Charity Commission. It includes the principle purpose of the church, which is a religious purpose. It describes what the church does that makes it a charity and also includes sufficient scope for churches to operate pre-schools, and carry out such other charitable purposes both in the United Kingdom and overseas as are normally associated with a Baptist church. We see this as a statement of the position that has applied to Baptist Churches for many years. It is the same terminology as is used in the Approved Governing Document for unincorporated associations.

Clause 3.2 has remained as part of the precedent even though we are aware that most churches in membership with the Baptist Union of Great Britain are not in either Scotland or Northern Ireland. Our solicitors felt there were benefits in leaving this clause in place. A local church may want to ask the solicitor acting for them whether it is appropriate in their particular circumstances.

We would not envisage any alteration being necessary to clauses 3.1.1 and 3.1.2 and since the CIO constitution is an approved governing document **you must not alter these clauses**.

4 Beliefs

The Declaration of Principle has been included and must not be removed.

5 Activities

Clause 5.1 indicates that the church can carry out activities on its own or with others.

It is recognised that the church will engage in a range of activities that will vary over time.

Clause 5.2 includes a list of activities.

We do not expect churches to edit this list. It does not require each Baptist church to carry out each of the activities that are listed. The list is intended to illustrate the kind of activities that might typically be found in a selection of Baptist churches. Obviously activities like regular public worship, prayer, Bible study, preaching and teaching, baptism and communion would happen everywhere.

The terms of this clause have previously been carefully negotiated with the Charity Commission when we were preparing the Approved Governing Document for Unincorporated Associations.

6 Affiliation

The precedent document for a Charitable Incorporated Organisation has been prepared for use by churches in membership with the Baptist Union of Great Britain so it includes a requirement that the church should be a member of the Baptist Union and the appropriate Baptist Association. For many churches this is not a new requirement since many church property deeds require that the congregation using the building are a Baptist church in relationship with the Baptist family.

7 Powers

This clause is a technical clause that confirms that the Charitable Incorporated Organisation (church) will have power to engage in contractual arrangements, remunerate staff and manage bank accounts.

8 Application of Income and Property

Clause 8 is also technical. The purpose of the clause is to make sure that charity assets and income are applied to the work of the church by the Charity Trustees who have responsibility for the administration of the funds. This does not prevent appropriate reimbursement of expenses or the remuneration of a Charity Trustee, church member or connected person for goods and services supplied to the church, subject to any payments being fair, reasonable and properly authorised.

9 Benefits and Payments to Charity Trustees and Connected Persons

Although Charity Trustees have a duty to ensure that the income of the church is used for the work of the church Charity Trustees, and people connected to them, are able to receive some appropriate payments. Any payment has to be reasonable, agreed by the Charity Trustees as a group and meet the requirements of Charity Law.

Without this section Charity Trustees may not be able to authorise payments locally and this would be inconvenient.

Clause 9.1 General Provisions. This clause sets out the principles that apply. Charity Trustees should undertake their role for the benefit of the charity rather than seeking appointment for personal financial gain. This section reflects the current law as it has applied for a long time.

There is a general phrase used at clause 9.1 "No Charity Trustee or connected person". This definition is important because it means that an individual Charity Trustee cannot benefit personally, nor can members of their family household or business partner. We will give a more detailed explanation when we deal with the definitions at clause 33 but the definition is included in the CIO General Regulations. The purpose of referring to Charity Trustees and "connected persons" is to ensure that money from the charity is not used to benefit family members or businesses in which a Charity Trustee may have a financial interest.

Clause 9.2 Scope and powers permitting charity trustees' or connected persons' benefits. There is flexibility which allows Charity Trustees or their relatives, close family members or business partners to receive some financial benefits from the church funds but this process will need to be carefully managed and the safeguards observed.

Clause 9.3 Payment for supply of goods only – controls. This section sets out the limitations on payments and the way that payments should be appropriately authorised.

10 Conflicts of interest and conflicts of loyalty

In many churches it is common practice for individuals to leave meetings where matters of personal concern or related to other family members are being discussed. This clause sets out a specific requirement for the Charity Trustees of the church to withdraw from discussions and decisions where they have a potential or actual personal interest.

11 Liability of members to contribute to the assets of the church if it is wound up

Within Unincorporated Associations the responsibilities and liabilities are shared. This is why working together and only spending what the church can afford is so important.

In the case of Charitable Incorporated Organisations the liability of the members and Charity Trustees is limited and the liability of the organisation is limited to the value of the assets of the organisation. It is therefore possible, if a CIO became insolvent, that other people and organisations with whom the organisation had a commercial relationship could suffer a financial loss.

The Charity Commission precedent document offers two choices at this point. The first is that individual members carry no financial liability if the organisation closes. This is the option we have included in our document.

The second option was for members of the organisation to be asked to accept a level of liability, although this would probably be for a nominal sum of perhaps £1 or £10. This is often used in Charitable Companies and is an option for CIOs. It would mean that if the church ceased to exist, became insolvent, and closed leaving debts then the individual members could be asked to contribute the sum that they had promised when they joined the church.

Obviously for most churches, particularly those that are deciding to close, the membership is likely to be very small so we could see no benefit in collecting small sums of money from a few people, even if this was intended to offset the financial liabilities of the church. Whilst it was easy to see that a contribution from individual members of a large company with thousands of members might be appropriate it was hard to see how this would be helpful in the context of a Baptist Church.

12 Membership of the Church

For a church that is an Unincorporated Association the membership arrangements can follow traditional Baptist patterns. These will vary from church to church but most include an opportunity for the prospective member to be interviewed, either by the Minister and Deacons or other Church Members. Some form of recommendation will be made to a Church Members' Meeting and the person is welcomed, with their name being added to the List of Members.

In an Unincorporated Association the Membership List is a fairly informal administrative record. However within a Charitable Incorporated Organisation the Membership List has to be maintained in a much more structured and formal way. Therefore the procedures for admitting members or removing members have to be more formal.

Clause 12.1 Eligibility. This explains the eligibility of individuals to become members of the church, making it clear that membership is personal and cannot be transferred to anyone else.

Clause 12.1.1 General. It is assumed that those who have become members of the church will accept the beliefs of the church and be willing to participate in the activities.

Clause 12.1.2 Open Closed. We have offered three options at this point. We are aware that different churches have different requirements when they consider admitting an individual to membership. Some practise open membership, accepting individuals who have made a public profession of faith whether or not they have been baptised as believers by immersion, as described in the Declaration of Principle.

Other churches require that individuals must have been baptised in the manner described in the Declaration of Principle. Allowances are made where people are infirm or unwell but otherwise the requirement is strictly applied.

Other churches have a hybrid arrangement. They feel that they want to welcome individuals who have not been baptised as indicated in the Declaration of Principle and create an Associate List of members. They can attend Church Members' Meetings but their capacity to vote is usually limited.

Churches need to look at option 1 (Open Membership), option 2 (Closed Membership), option 3 (Closed Membership with an Associate List) and make an appropriate choice for their church.

Some churches will know that their property deeds indicate closed membership, some specify open membership and others contain little information on this subject.

Churches may have followed one pattern for many years but may want to consider changing the arrangement. We are aware that from time to time churches decide to change from being closed membership to open membership, and others have made the opposite choice. Both positions are acceptable for a church in membership with the Baptist Union.

We are aware of variations in practice and a certain level of confusion. When we were preparing the Approved Governing Document for Unincorporated Associations we discussed the situation with the Charity Commission at some length. We concluded that for churches creating a new Constitution we could invite them to select whichever of the three options they would like to include. We realise that this may be pastorally sensitive, particularly if there are individuals who have not been allowed to participate as full members in the past, but the church is now at a point where it is considering a wider set of new arrangements in this Constitution.

Clause 12.2 Admission Procedure. The Charity Trustees have legal responsibilities to maintain an up to date Membership List. This is related to the CIO General Regulations. We have followed the precedent document prepared by the Charity Commission in indicating that Charity Trustees deal with matters relating to an application for membership. However, within a Baptist Church it has been the normal practice for membership applications to be considered by the whole Membership at a Church Members' Meeting. We need to balance these two requirements.

Therefore please look at clause 12.2.7 which indicates that the application for membership should also be considered by existing members of the church and that the Charity Trustees are expected (except in exceptional circumstances) to follow the recommendation of the Church Members' Meeting.

The CIO General Regulations require that the list is maintained by the Charity Trustees. The precedent constitutions also indicate that the administration of the arrangement should be made through and by the Charity Trustees. We included clause 12.2.7 in order to ensure continuity with our current Baptist practice.

Clause 12.3 Duty of Members. This list is similar to the list used in the Approved Governing Document for unincorporated associations, indicating the responsibilities of Church Members.

We were initially quite puzzled by clause 12.3.4 in the form that it was presented within the Charity Commission precedent. That indicated that the members of the church should act in good faith and could undertake any activities which they thought would advance the work of the charity. We reworked the clause as we wanted to make it very clear that the responsibility of members was not to simply formulate ideas of their own and pursue them but to work together with other members in helping the church to advance its purpose through the activities. We mention this because the clause used in the Charity Commission document is rather different.

Clause 12.4 Termination of Membership. The arrangements for terminating membership are a little more complicated than in other documents, not least because a CIO has its own legal identity. The CIO General Regulations require the list of members to be kept up to date.

There will sadly be occasions when it is necessary to remove an individual from the membership of the church. This is envisaged in the Charity Commission precedent document where they place the responsibility for dealing with this with the Charity Trustees. There is an opportunity for the member to be informed and to have some kind of right of appeal.

This situation is not new within Baptist Churches. On rare occasions an individual church has had to take the painful decision to remove an individual from membership. This is reflected in clause 12.4.4 which refers to the processes and approach that should be used in dealing with this kind of difficulty.

Churches should speak to their Association and Regional Minister so that all possible opportunities for mediation and resolution can be explored before moving to this more difficult phase.

13 Church Members' Meetings

This section is fairly straightforward reflecting the familiar patterns of Members' Meetings within a Baptist Church.

Many Baptist Churches will wonder why we have included an expanded explanation that there are three kinds of meetings at 13.1.1. This constitution will be read by people who have little knowledge of traditional Baptist patterns, so it is important to begin by explaining why there are three kinds of Members' Meetings, Ordinary, Special and the AGM.

Clause 13.1.2. As this is an Incorporated Organisation we need to include this clause which specifies that an Annual General Meeting of the Members must be called within 18 months of the registration of the church as a CIO.

Clause 13.1.3 to 13.1.7. These clauses attempt to explain how the different meetings function and the fact that Ordinary Meetings tend to deal with routine matters with Special Church Members' Meetings being reserved for more significant decisions.

Some churches have raised questions about the need for four meetings in each calendar year. If a church wanted to reduce this to three this would be acceptable. However, it is important that a regular cycle of meetings are planned, since members need to be informed about the church's work and activities and to have an opportunity to respond.

Clause 13.1.7 and 13.1.8. These two clauses are a reflection of Baptist patterns and practice. The Church Members' Meeting has been the place where the members gather to discern the mind of Christ in the life of the church. This is fundamental to the Declaration of Principle included in the Beliefs section. We realise that healthy Church Meetings will often need to be a blend of prayer, worship, sharing ideas about the mission of the church, expressing concern about difficulties and enthusiasm where there are opportunities. There may be business matters to deal with and we would always hope that the Church Members' Meeting was business-like but it is not a business meeting.

Clause 13.2 Calling Members' Meetings. The responsibility for calling Church Members' Meetings rests with the Charity Trustees. The usual arrangement which permits a group of members to insist that a meeting is called is preserved.

Clause 13.3 Notice of Church Members' Meetings. As a CIO is a corporate structure the precedent constitution prepared by the Charity Commission contained clauses that were based on the concept of Company Meetings.

Many churches will call Church Members to a meeting by making an announcement at a Sunday service but in a CIO this has to be supplemented by written notice that will reach all members, such as a notification by email or a personal letter. Only written notice to all members will count as valid notice.

It is important to note that if notice is given electronically or by post then regulation 53 of the CIO Regulations 2012 will apply. An additional initial 48 hours is then needed before notice is deemed to have been received, before the 7 clear days' notice specified at 13.3 can start. Regulation 53 says that Saturdays, Sundays and bank holidays do not count towards this initial 48 hours; they do, however, count towards the subsequent 7 clear days. 'Clear days' does not include the day of receipt or the day of the meeting.

If there are changes to the constitution the text needs to be made available in advance, please see clause 13.3.3.

Churches that choose to include the new provisions at 13.12, which provide for participation in Church Members' Meetings by electronic means, should also include the wording in square brackets at 13.3.3.

Clause 13.4 Guests at a Church Members' Meeting. A choice is offered. Churches are invited to choose one of the two options.

Some churches restrict their Church Members' Meetings to members only. A specially invited guest (perhaps somebody speaking about a particular item, like an architect describing proposals for redeveloping the church) can be invited to attend. Only members may vote.

The alternative arrangement reflects a different pattern within Baptist churches where anyone can attend. This is usually so as to include those who normally attend the church, but again only members may vote. This is a more open approach but it is important that the arrangements are consistent and are not changed suddenly without consultation. The phrase 'if publically invited' has been deliberately included to ensure clarity.

Clause 13.5 Chairing of Church Members' Meetings. This does not require much explanation. In many Baptist churches it is thought that the Minister of the church should normally chair the meeting, although there is an alternative view that the Minister should be free to contribute to the meeting in a more general way. This clause does not prevent either set of arrangements.

Clause 13.6 Quorum at Church Members' Meetings. The clauses are fairly straightforward. There is no option to conduct meetings without a quorum of members present. The percentage of members that form a quorum can be specified by the church, it can be set at a low figure but these provisions are important and must be included.

Although some churches prefer to operate without a quorum the Charity Commission and the CIO General Regulations require that a quorum should be set, be clearly understood and included in governing documents. Sadly, the Commission's experience of disputes and problems within charities is that uncertainty about the validity of decisions and the number of people who should have gathered to take those decisions is a major area of difficulty.

In other documents we have sometimes offered the option of a quorum which is a stated number of members but in this case we have chosen to follow the approach taken in the Charity Commission precedent document for a CIO. If churches wanted to change this for their own particular reasons they would need to seek legal advice before doing so.

Churches that choose to include the new provisions at 13.12, which provide for participation in Church Members' Meetings by electronic means, should also include the wording in the first set of square brackets at 13.6.4.

Clause 13.7 Taking decisions at Church Members' Meetings. The purpose of a Church Members' Meeting is to discern the mind of Christ in the life of the local church. Traditionally this has been recorded as a formal vote but some churches prefer an approach where decisions are taken by consensus. This is permitted under this document and the arrangements for taking decisions are set out in section **13.8 Taking decisions by consensus and voting** and **13.9 Decisions that must be taken in a particular way.**

Clause 13.8 Taking decisions by consensus and voting. This section is about taking decisions either by a consensus decision or by a vote. Even when a consensus decision is taken, the fact that the decision has been made needs to be recorded in the minutes.

Consensus voting requires that the members are in agreement with what is proposed. We suggest that if there is disagreement that this is recorded as a vote, to avoid confusion later.

Most routine decisions only require a majority decision.

Some decisions at Special Church Members' Meetings require a higher voting tariff.

The arrangements for the appointment of Charity Trustees or other individuals to responsibilities within the church may also require different levels of support.

Clause 13.8.11 is a framework for setting a higher voting tariff. It is important that if churches are using this clause that they follow the process exactly so that it is clear at the point where the vote is taken that a higher vote is required and exactly what is required for a resolution to be passed.

Clause 13.9 Decisions that must be taken in a particular way. Some decisions require special procedures.

Clause 13.10 Special Church Members' Meetings. Special Church Members' Meetings are reserved for 'special business'. Please note that the comments above relating to regulation 53 of the CIO regulations will also apply to notice of a SCM (see clause 13.3 above).

Clause 13.11 Adjournment of Church Members' Meeting. This is a fairly straightforward provision. Churches may not be familiar with the concept of there being a limit on the business to be transacted at an adjourned meeting. The business of the previous meeting is carried forward and

should be dealt with first. This particular clause was included in the Charity Commission precedent document and we felt that it was a useful provision.

Clause 13.12 Participation in Church Members' Meetings by electronic means. These are optional clauses which provide for electronic and hybrid Church Members' Meetings.

Clause 14 Charity Trustees.

Clause 14.1.1, 14.1.2 and 14.1.3. The Charity Trustees are those who have been appointed by the Church Members' Meeting to have responsibility for the leadership of the church. The usual titles used are Deacon, Elder, Treasurer, Secretary and Minister. Titles will vary between churches and some churches will refer to a leadership team. It is important that the group is properly identified because they have important responsibilities which need to be understood clearly.

In a CIO the Charity Trustees' names will be listed on the Charity Commission website so there should be no doubt as to their identity. All Charity Trustees have responsibility for the work of the organisation and all need to be involved in taking decisions. Clause 14.1.3 quotes the legal definition of 'charity trustee' from section 177 of The Charities Act 2011. Although individual names are noted at the Charity Commission it is important to recognise that the legal definition of a Charity Trustee is related to those who are actively involved in the day to day management of the charity. From time to time churches have asked whether one or two people could be given the role of Charity Trustee so that everybody else can get on with the work of leading the church. This will not work because of this legal definition; anyone whose role meets the definition will be a charity trustee.

Clause 14.1.2 indicates that although Charity Trustees have specific responsibilities there is a balancing factor which is the work of the Church Members' Meeting. Church Members' Meetings may make specific directions and the Charity Trustees should take note of these. However the Church Members should not ask the Charity Trustees to do anything which would cause them to be in breach of the church's governing document, any of their trustee duties, or to do anything that is illegal.

Clause 14.2 Functions and duties of Charity Trustees. Charity Trustees have important, shared responsibilities. They need to exercise care and skill and respond to the views expressed by the Church Members' Meeting. They sometimes deal with sensitive issues and there will be times when matters have to remain confidential.

Clause 14.3 Personal qualities of Charity Trustees.

Each church will need to decide the maximum number of Charity Trustees they wish to serve. In a CIO no Charity Trustee should be under 16 years of age. Some individuals cannot serve as Charity Trustees because they are disqualified.

We think that any Minister (or Senior Minister), the Church Secretary and the Church Treasurer will automatically be Charity Trustees because of their role and responsibilities.

Some Baptist churches allow open membership, other Baptist churches practise closed membership. In a closed membership church all the members of the church will have been baptised by immersion upon their own personal profession of Faith. If church Charity Trustees are chosen from among the members all of them will have been baptised in the required manner.

Some churches allow open membership. They actively follow the normal practice in a Baptist church where an individual coming to faith would express that in baptism by immersion, but allowing that others are permitted to join the church without necessarily meeting this requirement.

Matters can become complicated when a church is appointing leaders.

Some churches accept that any Church Member can be appointed as Charity Trustee. Other open membership churches want most or all of their Charity Trustees to have been baptised by immersion. We have provided different options so churches can make a choice.

Clause 14.3.8:

Option 1 of 4 is straightforward. Any member of the church can be appointed as a Charity Trustee unless they are disqualified by statute. This could apply in either an open membership church or a closed membership church.

Option 2 of 4 might apply in an open membership church where they wanted the Charity Trustees to have been baptised as defined in the Declaration of Principle.

Option 3 of 4 is a hybrid arrangement and seeks to ensure that there is always a majority of Charity Trustees who have been baptised in the manner indicated in the Declaration of Principle.

Option 4 of 4 is a formula that seeks to ensure that it is clearly understood that it is Full Members of the church, rather than Associate Members who may be appointed as a Charity Trustee.

Clause 14.3.9. Some churches have found that where a group of Charity Trustees or Deacons are closely related this can cause difficulties and a conflict of loyalties. Therefore there is a choice as to whether close family members can serve together as Charity Trustees. We have included some words in brackets, spouse, parent, child, sibling, but individual churches may want to include business partners, or simply abbreviate the clause to indicate members of the same household. The Charity Commission definition would be "connected person" but individual churches may need to consider the situation generally.

Clause 14.4 Number of Charity Trustees. Churches need to decide whether they want a maximum number of Charity Trustees or not.

The strict legal minimum is two but this would be a very small group and it is preferable that the group is larger. There is reference in the Charity Commission precedent to there being no fewer than three Charity Trustees which would represent a 'best practice' minimum number. The Charity Governance Code for smaller charities states 'A board of at least five but no more than twelve trustees is typically considered good practice'.

Clause 14.5 First Charity Trustees. You need to include the names of the first charity trustees of the CIO. This is a requirement of the CIO General Regulations.

Clause 14.6 Appointment of Elected Charity Trustees. Please remember that we are assuming that this is a newly formed organisation and therefore at the first Annual General Meeting of the Members of the church the named trustees would retire, and be subject to a process of reappointment. This is not expected to include the resignation of the Minister!

This then sets in process a cycle of appointment and retirement of Charity Trustees. Many churches prefer a third of the Charity Trustees to retire each year, which helps to ensure continuity. Others may wish to change this provision so that there is an annual (or three yearly) appointment of the Charity Trustees. Again different options are available. Please refer to section 14.6.3.

Clause 14.6.6 outlines the principles that should apply to the appointment of Charity Trustees

Clause 14.7 is about nominations. We have included a fairly traditional approach reflecting the patterns that have applied in many Baptist churches over generations. However we are aware that some churches take an alternative approach.

In some churches a process that is clear, public and open and involves the Church Members' Meeting making the appointment is complemented with a role for the serving Charity Trustees. They receive suggestions from the members of individuals who may be suitable to serve as Charity Trustees. They have responsibility for considering the suggestions and formulating the final list of candidates who will be considered by the Church Members at their Meeting. The members will then vote to indicate their support, or otherwise, for these candidates. Those receiving sufficient support will take up an appointment as Charity Trustees.

Churches need to consider this issue carefully. One approach tends to strengthen the position of the membership rather than the leadership; the alternative approach tends to strengthen the position of the current leadership rather than the membership.

A nomination process that assumes that all the suggested candidates' names are submitted to the members for a vote has some benefits. It is a familiar procedure in many Baptist churches. It is clear and open and not subject to any intervention. It could be seen as contributing more easily to creating a framework where changes of leader can happen naturally and with less risk of controversy. It would be a very naïve church membership who appointed an individual they did not know well simply because their name appeared on a list. The need for an individual to receive a suitable level of support is in itself a safeguard. An election need not cause public embarrassment even if one or more of the candidates did receive a low number of votes, since it is the result of the election and the names of those appointed that should be announced, not the number of votes.

Clause 14.8 Voting Method. Two voting methods are offered. Both require a secret ballot. Both require scrutineers to count the votes. Both require that successful candidates achieve a sufficient level of support. Both option 1 and option 2 include the possibility of postal voting, although this is not something we would wish to encourage. However we realise that some churches already have postal voting for leadership team appointments and will want to include it.

Option 1 has the advantage of ensuring that the support for the candidates from the Church Members is tested without there ever being a need for a second ballot. The number of candidates that a Church Member can vote for is not limited. This voting method allows for Church Members to vote for as many of the nominated candidates listed who they believe would serve the church well as Charity Trustees.

The second voting method requires Church Members to use their vote to express support for no more candidates than the number of vacancies. Again scrutineers are appointed and in some churches they may wish to include arrangements that permit postal voting on the first ballot.

However there can be problems where there are a large number of candidates and a small number of vacancies. There is a potential that the spread of votes could be so broad that no candidate achieves a sufficient level of support to be appointed. There is a backup arrangement which gives power for the person chairing the Church Members' Meeting, with the agreement of the Church Members, to review the list of names and the outcome of the first ballot. The chair makes a decision to delete those names with the lowest number of votes. The remaining candidates are resubmitted to either a second vote at the same Church Members' Meeting, or a second ballot at another time.

The chair of the meeting has a responsibility to announce the names of those who have been appointed. There is no requirement to announce the percentage of votes each candidate received. Whilst it may be helpful to indicate that successful candidates have received a large proportion of those votes there is potential difficulty if figures are announced that some individuals have received a very low level of support.

Churches that choose to include the new provisions at 13.12, which provide for participation in Church Members' Meetings by electronic means, should also include the wording in square brackets at 14.8.1 and 14.8.2.

Clause 15 - Appointment of Church Secretary and Church Treasurer.

Two options are included.

Baptist churches have usually had a Church Treasurer and a Church Secretary (or individuals carrying out the equivalent functions). The Church Secretary is generally the point of contact with the outside world. The Secretary deals with correspondence, inviting visiting preachers if the Minister is away, organising meetings, and providing help in co-ordinating the activities of the church. A Church Treasurer has primary responsibility, with the other Charity Trustees, to ensure that the finances of the church are managed well. The Treasurer should keep colleagues informed of the financial situation, particularly if the church is running out of money!

Both roles are important but those appointed operate within a context where all the Charity Trustees have equal status and responsibility for the legal and financial aspects of church life, as well as more general leadership responsibilities to ensure that the charity is well run, is achieving its purpose, and making strategic plans for the advancement of the work of the church.

Option 1 indicates that the Charity Trustees once appointed shall nominate an individual from among the group to be Church Secretary and another person to be Church Treasurer.

Option 2 is an approach used by many Baptist churches. The Church Treasurer and the Church Secretary (or equivalents) are appointed at an Annual General Meeting, or an ordinary church members' meeting, on a separate ballot from the rest of the Charity Trustees.

Because of their responsibilities they are automatically Charity Trustees and work within the context of the whole group.

In some churches this is an annual appointment that is renewed each year. In other churches a more long term arrangement is made.

Some churches insist that the Church Treasurer and Church Secretary take a break after a few years of service, which guarantees that new candidates are considered. If you have a Church Secretary or Church Treasurer who is valued and carries out their work efficiently this can be a disappointment. On the other hand where there is a need for change this can be achieved as part of the general cycle of appointments and retirements.

Some churches have moved to a situation where they have a leadership team. All members of the team would have the responsibilities of Charity Trustees but would also have an individual responsibility to oversee an area of church life. This might be mission, finance, pastoral care, administration, fabric, young people etc. Where churches follow this pattern they do not always want to have a Church Secretary and Church Treasurer who are distinct from the whole group but would appoint somebody to take charge of finance and administration; the effect would be the same.

Clause 15.3 contains the same wording as clause 14.6.6, which is a clause that is protected under the terms of the copyright licence that applies to the document. We would not expect the wording at 15.3 to be amended.

Clause 16 - Ministers.

Clause 16.1 is fairly straightforward.

Clause 16.2 indicates that the minister shall accept the beliefs of the church.

Clause 16.3 indicates that where possible the minister should be on the Baptist Union's Register of Covenanted Persons Accredited for Ministry. It is recognised that this will not be possible in every case.

Clause 16.4 indicates that even where a minister is not on a Register of Persons Accredited for Ministry they must be in sympathy with the way a Baptist church functions and sympathetic to the relationships the church has with the Baptist Union of Great Britain and the local Baptist Association.

Clause 16.5 Ministers and Tasks. There was a lot of debate about this Clause in previous precedent documents. It is important to recognise that the exact tasks fulfilled by ministers will vary depending on individual ability and gifting. We have included an indication of the kind of tasks that would normally be expected of a minister within a Baptist church. Some ministers may want to place an emphasis on youth work, Bible teaching or community work, but this clause is an attempt to give an indication of the involvement that would be typical and expected.

Clause 16.6 is an attempt to explain the covenant relationship between a minister and the church. It is a relationship of mutual accountability with church members and the other Charity Trustees. This Clause is intended to describe the style and kind of relationship, not to explore or define aspects of employment law.

Clause 16.7 Churches are encouraged to work closely with the local Association. When a church appoints a minister it is an important decision that will have long term effects on the life of the church. The same applies in the sad situation where an appointment is rescinded.

Clause 16.8 Removal of a Minister. A minister may be removed by a resolution of the church members at a Special Church Members' Meeting but again a right for the minister to speak to the meeting is mentioned. There may be important issues that the minister needs to explain.

Clause 16.10 It is recommended that terms of appointment are clearly defined before a minister accepts the appointment from the church and we have indicated that these should be based on the standard terms of appointment published by the Baptist Union of Great Britain.

Clause 16.11 This clause is important because it ensures there is no doubt that the Minister of the church can be remunerated from the funds of the church. Although this is covered in other places by provisions that permit the remuneration of Charity Trustees it was thought helpful to repeat this specific provision relating to Ministers here.

Clause 16.12 In the sad situation where a Special Church Members' Meeting is considering the dismissal of a Minister it is necessary that a process is followed where the Minister can hear what is said, correct errors of fact or offer an explanation before withdrawing so that the Church Members can consider the situation. We strongly recommend that a church in this situation should not proceed to this point without involving their local Baptist Association. The Regional Ministers within the Association will have considerable experience and wisdom to offer. It may be that the situation can be resolved in other ways. An alternative would be to speak to the Ministries Team at Baptist House.

Clause 17 - Information for new Charity Trustees. These clauses are fairly straightforward. Similar clauses were included in the CIO precedent constitution prepared by the Charity Commission.

Clause 18 - Retirement and removal of Charity Trustees. Again this is fairly straightforward and we do not think any specific comments are needed. We would anticipate that if the situation described in clause 18.2.2 arose then the Church Members' Meeting would be consulted.

Clause 19 - Reappointment of Charity Trustees. This clause is intended to allow for the reappointment of any Charity Trustee who retires as part of the normal rotation of trustees or has resigned, perhaps on a matter of principle. It was included in the precedent document prepared by the Charity Commission.

Clause 20 - Taking decisions by Charity Trustees. These clauses seem fairly straightforward and do not require any explanation. They helpfully include the possibility of taking decisions in ways that do not require a formal meeting.

Clause 21 - Delegation by Charity Trustees. This is set out much more formally in this document. Charity Trustees of Baptist churches have often delegated work to small groups. Notes may have been produced of the sub-group meetings or verbal reports may have been given. We have slightly altered the original precedent clauses produced by the Charity Commission to ensure that any sub-group has responsibility to notify the Charity Trustees if there is a major difficulty that will affect the life and work of the church.

Clause 22 - Meetings and proceedings of Charity Trustees.

We included similar clauses in our precedent document for a Company Limited by Guarantee and in the Approved Governing Document for unincorporated associations. We realise that legally Charity Trustees could meet less frequently. We recognise that decisions can be taken by email. We also understand that there are benefits in Charity Trustees taking responsibility for particular areas of church life and working in small groups. However, we also think that because of the shared responsibilities and the shared obligations the group has to each other and to the Church Members' Meeting that it is important that some physical meetings are held.

Clause 22.2 Calling Meetings. This requires little explanation and is straightforward.

At clause **22.3** we refer to worship, prayer and the reading of scripture as being important features of the meetings of Charity Trustees.

Clause 22.4 Quorum at Meetings of Charity Trustees. Again this is fairly straightforward but care is needed to ensure that there is adequate accountability. On the other hand a quorum should not be so high that a meeting is impossible because the quorum is set too high.

Clause 22.5 Chairing of Meetings. There is an opportunity for Charity Trustees to choose the person who will chair their meetings at any time.

Clause 22.6 Procedure at meetings. This clause emphasises the fact that a quorum must be present for a decision to be taken.

Clause 22.7 Taking decisions by consensus. Voting is not always required, consensus decision making is possible.

Clause 22.8 Taking decisions by vote. This is fairly straightforward. However please note that the chair does not have a casting vote but that where there is an equality of votes the matter will be considered rejected and resubmitted for consideration at a later meeting.

Clause 22.9 Participation in meetings by electronic means. This is straightforward.

Clause 23 Saving provisions. These clauses are intended to 'save' the organisation from becoming involved in technical legal wrangles where it is found that decisions were made inappropriately because one or more of the Charity Trustees was not qualified to take the decision. It also covers a situation where the quorum provisions have not been followed correctly. This clause helps to solve the problems caused by mistakes. However please note that these provisions do not enable a Charity Trustee to keep a benefit which has been granted inappropriately.

Clause 24 Execution of documents. This may be a slightly new concept for churches. Companies and Charitable Incorporated Organisations have a legal identity. Therefore they can execute documents in their own right. This will include holding property in their own name.

This clause specifies how documents will be properly executed. It is important that Charity Trustees track the way in which the CIO is being committed to formal legal arrangements, particularly if these relate to property and land. Even though only two Charity Trustees may be needed to validly execute a legal document this does not mean that the arrangements contained in the document can be entered into without proper agreement from the whole Charity Trustee group, and possibly the Church Members' Meeting.

Clause 25 Use of electronic communications. The Church must comply with the requirements of the Communications Provisions in the General Regulations. In particular, it is important to note the provisions in regulation 53 of the Communications Provisions which are mentioned above.

Clause 26 Keeping of Registers. There are particular requirements in the CIO General Regulations that relate to the keeping of registers of members and Charity Trustees. We will not include a full explanation here but it is important to remember that lists of members and Charity Trustees have to be kept in a particular way, kept up to date, and be available at the CIO's principal office.

Clause 27 Minutes. These are straightforward.

Clause 28 Accounting records, accounts, annual reports and returns register maintenance. We think this is straightforward.

Clause 29 Proper Rules or a Church Handbook. Local churches sometimes want to supplement the formal governance arrangements with a Church Handbook. Some may also want to create a simplified summary of the way the church operates, although any Church Member, or member of the public, is entitled to receive a copy of the church's governing document on request.

A suggested format for a Church Handbook has been prepared. Please refer to the BUC Guidelines Leaflet C14 *Church Handbook (Optional Extra)*. Although this was prepared as a supplement to the precedent Memorandum and Articles, for churches wishing to form themselves into a Limited Company, the format may be helpful to churches that are Charitable Incorporated Organisations.

Clause 30 Disputes. We hope this clause will never be needed but it is intended to provide a safety net and structure for resolving differences within the church.

Clause 31 Amendment of constitution. It is important that careful thought is given if the constitution is to be altered. This section provides a framework for alterations, although some can only be made if special procedures are followed.

Clause 31.2. Some clauses cannot be amended without the prior agreement of the Charity Commission.

Clause 31.5. This clause creates a protection for certain important clauses which are fundamental to the church's Baptist identity. Changes to these clauses can only be made after careful thought and consultation with the Baptist Union and the local Baptist Association.

Clause 32 Voluntary winding up or dissolution. For a CIO there are specific legal arrangements if the church closes. These are much more formal than might be the case in an Unincorporated Association. The reason why there are specific regulations dealing with the closure of a CIO is the fact that it has the benefit of limited liability. The Charity Trustees are not personally liable for the debts of the organisation in the event of closure. The CIO Regulations protect the interests of those who have entered into business arrangements with the church and may be owed money. If a church CIO is in a position where they need to close they should be taking formal legal and financial advice and contact their Association and the Legal and Operations team at Baptist House.

Clause 33 Interpretation. This is a technical interpretation clause. Sub-clause 33.5 explains which of the various statutory definitions of 'connected person' apply in different situations.

Clause 34 Postal Voting [Optional]. Some churches will have selected an option for postal voting at clause 14.8. Where this is used a clear procedure must be followed and one is suggested in this section.

Clause 35 Use of electronic communications. Again this section is fairly straightforward and requires little explanation.

END

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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.

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