

Guideline Leaflet M01: Loans to Churches

From time to time a church will consider borrowing money to help fund a particular project such as enlarging or renovating their buildings. This leaflet focuses particularly on loans from the Baptist Union Loan Fund but it also gives helpful information about loans from other sources.

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.



The BUC is only able to enter into a loan that is a relevant credit agreement (as defined by the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005) as lender for the purposes of the business of a church (or, if the church is unincorporated, the business of the church trustees) and not for any other purpose. Please see 'Important Notes' on page 5 for more information.

M01: Loans to Churches

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

LOANS FOR BAPTIST CHURCHES

This leaflet focuses particularly on loans from the Baptist Union Loan Fund and loans from church members. It also gives helpful information about loans from other sources and contains general advice about loans to Baptist churches.

Each Baptist church is an individual charity and the Charity Trustees are responsible for the day to day administration of the church, including property and financial matters. In a Baptist church the Charity Trustees are usually the Minister, Deacons and Elders (if any). Charity Trustees must observe obligations placed on them by charity law and the arrangements set out in the church constitution (governing document).

REASONS FOR BORROWING

From time to time a church will consider borrowing money to help fund a particular project such as:

- Constructing a new building or enlarging or renovating existing church buildings.
- Purchasing property for church use.
- Purchasing or enlarging a manse.
- To bridge the gap between buying one property and selling another

OTHER IMPORTANT ISSUES

Loans are needed for various reasons. Whenever a church has a major project it should take account of the guidance offered by the Baptist Union Corporation. The BUC publishes the following guidelines leaflets. The ones listed here are those that are usually relevant to activities involving loans.

PM01	<i>Buying a Manse</i>
PC08	<i>Buying Land or Premises for a Church</i>
PC04	<i>Redeveloping or Altering Church Premises</i>
PC05	<i>Construction (Design and Management) Regulations 2007</i>
PC06	<i>Redeveloping or Building Church Premises - Contract Procurement – The Alternatives</i>
L01	<i>Churches and Community Partnerships</i>

There are often trust and legal implications so it is vital that churches check with the Baptist Union Corporation (or your church's own Trust Corporation) for specific information about your church and its property.

SOURCES OF LOANS

- **The Baptist Union Loan Fund:** (www.baptist.org.uk/loans)
This is administered by the Baptist Union Corporation and can give loans of between £25,000 and £1m – see pages 3-5 for full details.
- **Loans from Church Members:** See page 6.
- **Your Association Loan Fund**
Please contact your local Baptist Association for more information.
- **Baptist Building CIO** (www.baptistbuilding.org)
Apply to: Emily Baker, Administrator
Tel: 07506 663761 Email: admin@baptistbuilding.org
- **The Particular Baptist Fund** (www.pbfund.org.uk)
Apply to: The Secretary, Particular Baptist Fund, 60 Magpie Hall Lane Bromley, BR2 9ED.
Tel: 020 8249 9519 or 07804 495805 Email: info@pbfund.org.uk
- **Commercial Lending Institutions**
Churches may apply to commercial lenders or to lenders who specialise in making loans to Christian charities. Please note that the property ownership arrangements for church property are not standard. Not all lenders can accommodate this framework because many lenders have systems set up to deal with a high turnover of standard domestic or business arrangements. They also struggle to understand the way churches gain income, since our patterns of direct giving bears little relationship to the arrangements that apply to businesses or personal finance.

LEGAL CONSIDERATIONS

Most loans from the Baptist Union Loan Fund do not need to be supported by a formal legal charge document on the church property or manse. This avoids the need for solicitors to be involved and saves on costs. Other lenders may have different requirements.

Even where there is no formal legal charge, the Charity Trustees of a church (or other charity) have important legal and financial responsibilities. They need to be sure that taking out any loan is in the best interests of the church, and that the church can repay the money. They will obviously consult and obtain authority from the church members, but Charity Trustees need to be aware of their responsibilities.

When a formal legal charge document is needed (and most commercial lenders will need a formal mortgage or legal charge) there is legal paperwork to complete and specific legal requirements. The purpose of the arrangements is to make sure that the church has thought carefully about whether the loan is needed and how it will be repaid.

The Charities Act 2011 governs the borrowing of money by a church – or any other charity – against the security of charity property. Under sections 124 and 129 of the Act the Charity Trustees must obtain and consider advice from someone who has no financial interest in the loan and who is believed by the Charity Trustees to be qualified by ability and practical experience of financial matters to offer advice. The advice must cover the following points:

- Whether the loan is necessary.
- Whether the terms of the loan are reasonable.
- The ability of the charity to repay.

If the Baptist Union Corporation are the Holding Trustees they will be asked to countersign any formal mortgage deed or legal charge document. The Corporation will also want to be sure that the church can repay the loan, so even if you are not borrowing from the Baptist Union Loan Fund we may need to ask for information about your church accounts and budget. We will also need to ask our solicitors to check the paperwork before we sign it, and the church will need to cover the legal costs of this work.

On a manse or property purchase the solicitors who act for the church, the Corporation, and the mortgage lender will give guidance about the detailed requirements of Sections 124 and 129 of the Charities Act 2011. This will usually involve the charity considering the detailed terms, in addition to the general approval of the

arrangement by the Church Members' Meeting. They need to be satisfied that the terms are reasonable and accepting the loan is in the best interests of the charity (church).

THE BAPTIST UNION LOAN FUND

The Baptist Union Loan Fund (BULF) was created to help local Baptist churches with funds for a variety of projects. Capital funds are supplemented by deposits placed by churches with the Baptist Union of Great Britain to create a fund to help Baptist churches. Deposits are welcomed from churches to enable this important resource to continue to be available. The scheme is administered by the Baptist Union Corporation and at any one time there can be loans totalling over £12 million.

Who can have a loan?

Any Baptist church which is a member of the Baptist Union of Great Britain, the Baptist Union of Wales or the Baptist Union of Scotland can apply to BULF. Normally the Holding Trustees are the Baptist Union Corporation, or one of the other Baptist Trust Corporations. The Directors will consider applications from churches with different trustees although additional legal formalities will be needed and these will be at the church's expense. Applications will also be considered from churches who have become Charitable Incorporated Organisations or Limited Companies but again there will be additional legal formalities to complete which will be at the church's expense.

How much can be borrowed?

The minimum we can lend is £25,000. Churches wishing to borrow less than this should consider applying to their Association.

The normal upper limit for loans is £1,000,000 but larger loans will be considered.

Churches can repay their loan over any period up to 15 years - or 20 years if the loan is to purchase a Manse. We would want however to encourage churches to take out a 10 year loan if at all possible.

In deciding how much can be lent, the Baptist Union Corporation takes into account the general finances of the church, the cost and viability of the scheme and any other loans.

Total external borrowing (from all sources except church members' loans) must not exceed 70% of the building project or, in the case of a property purchase, 70% of the valuation or purchase price, whichever is lower.

How much will the loan cost?

Interest is at a variable rate which rises and falls approximately in line with market forces but is lower than commercial rates. Interest is charged on the daily outstanding balance and is capitalised at the end of each month. The current rate can be found on the Baptist Union website.

What are the repayment arrangements?

Repayments begin one month after the initial drawdown and are based on the full amount of the agreed loan. Interest is only charged on the outstanding balance. Repayments are made each month by Direct Debit covering interest and capital and these payments will change in line with interest rate changes. Churches with loans are expected to contact the Loan Fund Officer at a very early stage if there appears to be any likelihood of financial difficulty in servicing the loan.

What about 'Bridging Loans'?

We are now able to consider short-term Bridging Loans in some circumstances but these will be subject to different conditions to our normal loans. Further information about these loans are in leaflet M07 *Short-term Loans to Churches* which also includes an application form.

How does the church apply for a loan?

The Loan Fund Officer is Tim Chowns who works for the Baptist Union Corporation. You may find it helpful to have an initial conversation with him before submitting an application. His direct dial telephone number is 01235 517708 and his email address is tchowns@baptist.org.uk

The church will need to complete a loan application form which is available from the Loan Fund Officer or from the website. You will also need to read the appropriate *Loan Fund Application Guidance Notes*.

The completed form should be returned to the Loan Fund Officer as indicated on the form. Please make sure the form has been fully completed and all the supporting paperwork requested is sent with the form. There is a complete list of the paperwork required in the Guidance Notes. We ask that paperwork is sent electronically if possible.

As part of the application you will usually need to provide us with a list of pledged givers (names are not required). These are individuals who specifically commit to making regular contributions to meet the loan repayments. This means there is a stream of 'ring-fenced' giving. Ideally this would at least equal the total annual loan repayments to all lenders. However, other ways of financing the loan will be considered.

Completing the Application Form

The Application Forms are available on the Baptist Union website (as a Word document or as a pdf) or direct from the Loan Fund Officer.

M02 *Loan Fund Application Form*

M03 *Loan Fund Application Guidance Notes*.

For **Manse Purchases** please use

M04 *Loan Fund Application Form (Manse Purchases)*

M05 *Loan Fund Application (Manse Purchases) Guidance Notes*.

For **short-term (Bridging) loans** please use

M07 *Short-term Loans*

Please read the Guidance Notes carefully as you complete the form as they explain what is required. The Loan Fund Officer is always willing to help churches (by phone or email) as they work through the application process.

The Visit

Once the application has been received a visit will be arranged to the church. Normally the visitors will consist of the Loan Fund Officer and a representative from the local Association. They will want to meet with representatives of your church leadership and any project team.

The visitors will discuss the project for which the loan is being sought and will also ask about the general life of the church. In particular they will want to consider the financial strength of the church and will expect to see evidence of commitment to Baptist life.

Visits are not normally undertaken where churches are applying for a loan in connection with a Manse purchase or if the loan is for £75,000 or less.

Approval

The application will usually be considered by the Directors who will receive a report from the visitors. We aim to provide the church with a decision as soon as possible. Certain non-standard applications will have to be presented to a meeting of the Directors (they usually meet in February, July and October) but most standard applications will be processed between meetings.

Applications can be sent at any time but more complex applications must be with the Loan Fund Officer by a pre-set date, which will be advised to the church when they make their initial enquiry, in order that it can

be considered by the Directors at the next meeting.

Agreed Loans

If the application is approved an offer letter will be sent to the church setting out the conditions upon which the loan will be made.

The Church Members' Meeting (normally a Special Church Meeting) must pass a formal resolution in which the church members agree to receive the loan, and commit to repaying it! This must happen before the loan is released, because it is necessary to formally acknowledge the loan on the terms offered, agreeing to the conditions, and authorising the property trustees to repay it if the property is sold. This is a very significant decision. The church needs to be sure it can meet the repayments.

When does the church get the money?

Loans can be paid only after all the conditions in the offer letter have been fulfilled. Loans for building work will generally be paid by direct bank transfer to the contractor against architect's certificates. Loans for property purchases will be paid to the solicitors dealing with the purchase.

General requirements

If the loan is for a building or renovation project the church must satisfy the Baptist Union Corporation that:

- The church has Planning Consent, Listed Building Consent (if needed) and Building Regulation Approval.
- Approval has been obtained from the Property Trustees of the church premises (see PC04 *Redeveloping or Altering Church Premises*).
- The church's professional advisers, including any planning supervisor, have adequate professional indemnity insurance. A minimum of £500,000 is required but the Baptist Union Corporation's professional advisors may recommend a higher figure if the project cost or complexity demands it (see also PC05 *Construction (Design and Management) Regulations 2007*).
- Arrangements have been made with the church's insurers for adequate cover during the period of contract.
- Collateral Warranties and Performance Bonds are being considered and obtained if applicable (these are needed where the church is not entering into a direct contractual arrangement with the designer and/or builder.)
- The church has included an appropriate sum for contingencies in the project budget.
- Appropriate contracts have been arranged with professional advisers and contractors.
- If the church is purchasing a property, a survey and valuation as required by guidelines PM01 *Buying a Manse* or PC08 *Buying Land or Premises for a Church* must be obtained.

Important Notes

If an approved loan is not drawn down within six months after the Letter of Offer the church will be required to pay an accommodation fee to the Baptist Union Corporation. This will be 1% per annum of the full amount of the loan (less the first £50,000) payable quarterly in arrears. The fee will cease to be payable as soon as the first substantial loan drawing has taken place.

If an application is withdrawn at any time after it has been submitted then we reserve the right to ask for a contribution towards costs incurred of up to 0.2% of the loan being sought.

The BUC is not regulated by the Financial Conduct Authority. We are exempt from regulation because we are deemed to be lending for 'the purposes of a business'. Whilst the phrase 'the purposes of a business' may not sit easily with many churches we have been advised that the term 'business' has a wide definition and includes 'anything which is an occupation or duty that requires attention'. In this context it can be accepted that a church is acting as a business and therefore we are able to provide loans.

LOANS FROM CHURCH MEMBERS

Churches are sometimes offered personal loans from church members or friends, normally interest free. When this happens the following steps must be taken:

- The Church Members' Meeting must approve the borrowing and authorise the Church Treasurer to give receipts for the loans.
- Loans must be accepted by the Charity Trustees (usually the minister, deacons and elders) on the understanding that they are unsecured, without interest and repayable on (say) three months' notice, or within three months of the death of the lender. If interest is to be paid the rate must be agreed and stated.
- Special consideration must be given to the potential problems if a person to whom interest is paid is a Charity Trustee. Charity Trustees and their families are not normally able to benefit financially from the income of the charity.
- The receipt for the loan must make it clear that there is no personal liability for repayment on the Charity Trustees or the church members.
- If significant loans are being obtained (such as for a building project) contingency arrangements must be made in advance so that funds will be available to meet any requests for repayment. An individual could face unexpected financial problems and need the money to be repaid quickly. The church also needs to remember that the person might die and the money become due to their family or estate.
- If loans are promised to fund part of a project the money must actually be received by the Church Treasurer before the church legally commits itself to the project.

After a loan has been made the lender may wish to convert the loan, or part of the loan, into a gift. Careful consideration should be given to dealing with the gift in the most tax efficient way, for example by Gift Aid. The loan can actually be repaid by the church and then the sum paid back to the Church Treasurer as a gift.

The following is a suggested resolution of the Church Members' Meeting:

*'It is resolved that in connection with the church's (building project) the Charity Trustees are authorised to receive from members and friends of the church interest free loans/loans at interest not exceeding *% per annum/to be repayable on three months' notice or within three months after the death of a lender.'*

A letter from the Church (usually prepared by the Church Treasurer) should contain paragraphs along the following lines:

'This letter formally acknowledges the church's grateful thanks for an interest free loan of £/a loan of £* subject to payment of interest by the church at *% per annum payable quarterly in arrears, less income tax at the standard rate.'*

'The loan is accepted by the church on the understanding that it is unsecured and that neither I nor [the minister(s)] nor any of the [deacons, elders or Charity Trustees] or members are personally liable.'

'The loan will be repaid by the church within three months of you making a written request or within three months of your death. The church will be free to repay the loan at any time.'

'So that the church's records are complete and so that I know you understand the terms on which you have made the loan will you please sign the duplicate of this letter and return it to me.'

Important Notes

Cash loans are considered to be a provision of credit and may be regulated under the Financial Conduct Authority's consumer credit regime. Where a church is unincorporated (i.e. neither a Charitable Incorporated Organisation nor a Company Limited by Guarantee), depending on the scale of the lending and whether interest is charged, the lending may be considered to be by way of business and be a regulated activity. Legal advice should be sought where a church has any concerns in this regard.

Association Trust Company	Contact
Baptist Union Corporation Ltd East Midland Baptist Trust Company Ltd	Baptist Union Corporation Ltd Baptist House PO Box 44 129 Broadway Didcot Oxfordshire OX11 8RT Telephone: 01235 517700
Heart of England Baptist Association	Heart of England Baptist Association 480 Chester Road Sutton Coldfield B73 5BP Office Mobile: 0730 505 1770
London Baptist Property Board	London Baptist Association Unit C2 15 Dock Street London E1 8JN Telephone: 020 7692 5592
Yorkshire Baptist Association	17-19 York Place Leeds LS1 2EZ Telephone: 0113 278 4954
West of England Baptist Trust Company Ltd	West of England Baptist Trust Company Ltd Little Stoke Baptist Church Kingsway Little Stoke Bristol BS34 6JW Telephone: 0117 965 8828

This is one of a series of *Guidelines* that are offered as a resource for Baptist ministers and churches. They have been prepared by the Legal and Operations Team and are, of necessity, intended only to give very general advice in relation to the topics covered. These guidelines should not be relied upon as a substitute for obtaining specific and more detailed advice in relation to a particular matter.

The staff in the Legal and Operations Team at Baptist House (or your regional Trust Company) will be very pleased to answer your queries and help in any way possible. It helps us to respond as efficiently as possible to the many churches in trust with us if you write to us and set out your enquiry as simply as possible.

The Legal and Operations Team also support churches that are in trust with the East Midland Baptist Trust Company Limited.

If your holding trustees are one of the other Baptist Trust Corporations you must contact your own Trust Corporation for further advice. A list of contact details is provided above. If you have private trustees they too should be consulted as appropriate.

Contact Address and Registered Office:

Support Services Team, Baptist Union of Great Britain, Baptist House, PO Box 44,
129 Broadway, Didcot OX11 8RT

Tel: 01235 517700 Fax: 01235 517715 Email: legal.ops@baptist.org.uk

Website: www.baptist.org.uk Registered CIO with Charity Number: 1181392

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