

## Leaving a Legacy to Christchurch Baptist Church

These notes are from guidelines developed by the Legal and Operations Team of the Baptist Union of Great Britain to provide information for Baptist churches. The guidelines can never be a substitute for detailed professional advice if there are serious and specific problems, but we hope you will find them helpful.

### The Importance Of Legacies

The work of Baptist churches, local Baptist Associations and the Baptist Union is supported by the generosity of church members and other people involved in the life of the local church. There is always immense gratitude when this generosity extends to provision being made for the Baptist family in somebody's Will. These legacies often help to provide long-term financial security for Christian work within the denomination.

### How To Make A Bequest

If you would like to leave a gift to Christchurch Baptist Church you will need to specify this in your Will. A solicitor will be able to help and you may like to give them a copy of this leaflet. It is important to take legal advice to ensure that the Will is clear and legally effective. Legal advice on Wills is not expensive if your affairs are fairly straightforward. If you have already made a Will you can add to or change its provisions at any time.

Some suggested wording for bequests is included later in this leaflet.

If you do not make a Will your assets will usually be shared among family members, as set out in legislation. This may not be what you intended. Making a Will ensures that all your assets are distributed as you choose, including leaving money to charities, such as Christchurch Baptist Church.

### Types Of Gift

It is up to you how you decide to support a charity in your Will. Your gift might be:

- 1. A specific sum of money**

This will be gratefully received whatever the size of the gift.

- 2. A gift of assets or property**

This might be land or stocks and shares for example.

- 3. A Residuary legacy**

This means leaving the residue of your estate which is the amount left over after funeral costs, other legacies and any other financial debts, taxes or expenses have been paid. You can leave all or a proportion of the residue to a charity.

Any type of legacy to a charity is exempt from inheritance tax so by leaving money to charity you are reducing the size of the rest of your estate that may be liable to inheritance tax.

## **Using Effective Wording In Wills**

It is absolutely vital that the wording in your Will clearly records your wishes and that the Will is legally enforceable. Considerable distress and legal expense can be incurred after somebody's death if it is not clear what was intended.

If you want to leave a gift to a specific church your Will must define clearly which church you wish to benefit by reference to a full address for the property and by confirming the name of the church in full.

If the church is a registered charity it is also helpful to include their registered charity number. Indeed registered charity numbers are useful to help to correctly identify any charity that you want to leave a gift to. Charities have to display their charity numbers on their literature and websites so they should not be difficult to find.

## **Will Clauses - With A Focus On Legacies To Local Churches**

The Baptist Union's solicitors have written the following Will clauses which are offered to you as a legally effective means of making a gift to a local Baptist church, such as Christchurch Baptist Church. The specific wording anticipates and avoids the pitfalls that can occur when inadequate wording is used. Your own solicitor will be able to tell you which clause is best suited to your own wishes.

1. I GIVE the sum of XXX to the minister and Leadership Team of Christchurch Baptist Church of Bargates, Christchurch, Dorset, BH23 1QT ('the Church') for the benefit of the Church provided that if before my death (or after my death but before the Trustees have given effect to the gift in question) the Church has changed its name or has amalgamated with or transferred all of its assets to any other body then the Trustees shall give effect to the gift as if it had been made (in the first case) to the body in its changed name or (in the second case) to the body which results from such amalgamation or to which the transfer has been made.
2. I GIVE the sum of XXX to the minister and Leadership Team of Christchurch Baptist Church of Bargates, Christchurch, Dorset, BH23 1QT, ('the Church') for the benefit of the Church provided that if the Church no longer exists at the date of my death such funds are to be held upon trust for XXX eg Baptist Union of Great Britain or appropriate Regional Baptist Association.

## **A Note For Solicitors - Bequests To A Local Baptist Church**

You are unlikely to be familiar with the organisational structure of local Baptist churches. Many are unincorporated associations, with an organising group that is often called The Minister and Leadership Team. They are the Charity Trustees, for legal purposes. Other titles you might hear are Pastor, Elder, Church Secretary, or Church Treasurer, or Deacons.

Most Baptist churches do not have a registered charity number. It is generally churches with an annual income over £100,000 that have become registered with the Charity Commission and some are registered as Charitable Incorporated Organisations. Each local Baptist church is a charity in its own right, whether or not it is a registered charity. A few Baptist churches are Companies Limited by Guarantee, all with both a charity and company number.

Not all Baptist churches have the word 'Baptist' in their title. Baptist churches can change their name, so including the address of the church at the time the Will was made will enable the intentions of the testator/testatrix to be clearly understood. Some churches meet in school halls or other rented buildings, so there may not be a building to use as the 'home address' of the church, and special care will be needed to identify the church clearly. Most Baptist churches would have a church magazine, weekly notice sheet, headed paper or website.

If you search for the word 'Baptist' on the internet, you will find some national and regional groups in England and Wales that are part of the Baptist Union of Great Britain. However, there are a wide variety of Baptist churches and networks. They are not all the same and they are not all linked.

If you are unsure please contact the Legal and Operations Team at the Baptist Union, who regularly deal with legal issues that affect Baptist churches. Their solicitors are Anthony Collins LLP in Birmingham.

### **What If The Church Changes Its Name?**

Sometimes supporters of the church have named the church in a Will or Trust Deed, so what happens when the church changes its name?

Is asking donors to place a letter about the change of name sufficient? This would let the executors of the Will, or the trustees of a Trust Fund that the church had simply changed its name, but is this legally effective in all circumstances?

Much will depend on the nature and wording of the Will.

If a Will leaves a legacy to the Church and the Will includes standard provisions (called the STEP Standard Provisions) or has a clause which states something like:

*'... if before my death (or after my death but before my Trustees have given effect to the gift in question) any charity church or other body to which a gift is made in this my Will has changed its name or has amalgamated with or transferred all of its assets to any other body then my Trustees shall give effect to the gift as if it had been made (in the first case) to the body in its changed name or (in the second case) to the body which results from such amalgamation or to which the transfer has been made.'*

In these circumstances the gift to the newly named church or an amalgamated church will be effective as if the Will had been made naming the new church.

However, if the Will does not incorporate such express provision or does not incorporate the STEP Standard Provisions, then the position is unclear. Ultimately the Executors will have to satisfy themselves as to the identity of the beneficiary, in this case the Church. This should be able to be done through the paper trail of the name change for the Church. A letter from the Testator to confirm the new contact information for the Church would be helpful and persuasive. However, it would be open to the Executors to raise further queries, or potentially class the legacy as failing, particularly if the legacy is relatively large and/or the residuary beneficiaries of the estate (possibly members of the family) raise a query about the identity of the Church or the intentions of the person who made the Will.

If the person making the Will or gift is confident that their Executors will honour the legacy (and also that the residuary beneficiaries of the estate will not query the payment of the legacy) then a letter placed with the Will may be sufficient.

If they have any query or concern about the gift being honoured, they should take legal advice, and possibly revise their Will. They could make a fresh Will, or formally amend it by creating a supplementary document (a Codicil), to be read alongside the Will, which would be legally binding.