

## **Guideline Leaflet L08: Employment**

All churches that employ staff (other than a Minister) need to read this leaflet. It offers comprehensive advice on employment law and was written in conjunction with our solicitors. It contains a model employment contract and other model policies and procedures.

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](http://www.baptist.org.uk/resources)

The date on which the leaflet was last updated can be found on the download page.

# L08 Employment

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

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[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.**

**The HR Manager of the Baptist Union (Rachel Stone) is also available to provide advice, and her contact details are given at the end of this document.**

## GENERAL

Churches appointing a minister are reminded that ministers are appointed to a ministerial 'office', rather than to an employment, and they are advised to contact the Ministries Team of the Baptist Union. Standard terms of appointment are available to download from the Ministries section of the Resources pages.

Where a church employs other persons it must comply with the requirements of employment law - to which these notes seek to draw attention. There are also likely to be income tax and national insurance implications, and reference should therefore be made to the *Taxation Guidelines for Churches and Ministers* (document X03) and other taxation guidance which appears on the Union's website.

## EMPLOYMENT LAW

Much of the current law is found in the Employment Rights Act 1996 and the Employment Relations Act 1999.

Employment law is exceptionally complex. If in doubt, competent professional advice should be obtained.

Whenever anyone is 'employed', including part time employees, there will be a contract of employment whether this is written down or not. The law requires certain particulars relating to this contract of employment to be in writing and given to the employee not later than two months after the commencement of the employment. We would recommend that these particulars go out with the letter of appointment so that there is clarity from the start about the terms of employment.

**Annex 1** to these *Guidelines* is a list of the particulars that must be in writing.

When a church employs someone it is suggested that the main terms are set out in a Statement of Terms of Employment to the employee who can be asked to sign a copy as confirmation of acceptance of the post and the terms of the contract.

**Annex 2** is a model covering letter sending the Standard Terms of Employment, and

**Annex 3** contains a suggested form of Standard Terms of Employment.

These documents must be adapted carefully to meet the church's requirements. If you are unsure of the meaning or importance of any particular term that you wish to add, amend or change, please take advice.

## PROBATION

It is usual for a new employee to have an initial probationary period, usually lasting between 3 and 6 months. This gives time for both employer and employee to be satisfied that the employment should continue. If this is the case, it is important that a proper review is undertaken before the probationary period expires, and the person concerned notified in writing, prior to the expiry of the period, whether

the employment is to continue or the probationary period is to be extended or the employment is to end. Please note that employment will not automatically terminate at the end of a probation period – you will still need to give the appropriate notice.

Where there is a probationary period this should be made clear in the letter of appointment and in the statement of terms and conditions.

## **NOTICE**

This is a matter which must be carefully considered.

The minimum periods stipulated by law for notice given by an employer are:

- One week's notice if continuous employment is less than two years
- One week's notice for each year of continuous employment if continuous employment is two years or more but less than twelve years
- Twelve weeks' notice if the continuous employment is twelve years or more

In practice, however, the period of notice required to be given may be longer as it will depend on what is reasonable. For example, it is considered reasonable for an employee paid monthly to be given a month's notice. If you need to give notice at any point, you need to give the greater of the minimum period stipulated by law and the notice period shown in the employment contract.

The minimum notice to be given by an employee who has been in post for at least a month is one week.

Where the employment is terminated by an employer on short or no notice for a valid reason or by mutual agreement, money paid in lieu of notice can normally be paid without deduction of tax and NI, unless the contract of employment stipulates that money will/may be paid in lieu of notice.

## **FIXED TERM AND LIMITED CONTRACTS**

You may wish to offer employment for a fixed period of time, for example, a 12 month contract. An employee on a fixed-term contract should normally receive the same benefits as any comparable employee on a permanent contract. If, for example, a church employs a youth worker on a fixed-term contract and another on a permanent contract they should receive the same benefits unless any difference in treatment can be justified by a factor other than the fixed-term nature of the contract.

It may be desirable for a contract to state that a worker will be employed for a fixed period of time, until a task is completed or for so long as specific source of outside funding is available. However, even if the contract terminates when the period expires or on the happening of the relevant event, this will amount to a dismissal. If the employee has been employed for long enough, they could claim unfair dismissal and it would be for the church to show that the dismissal was fair. It is no longer possible for a church to include a waiver of the right to claim unfair dismissal or of the right to claim a redundancy payment in a new fixed term contract.

## **PART-TIME WORKERS**

A part-time worker should normally receive the same benefits as any comparable full-time worker on a pro-rata basis. If, for example, a church employs a part-time administrator and a full-time administrator, the part-time administrator should receive the same benefits, pro-rata, as the full-time administrator unless any difference in treatment can be justified by a factor other than the difference in hours worked.

## **REDUNDANCY**

A redundancy situation will arise if the employer's work requirements have ceased or diminished and the worker has been dismissed for that reason. It is a legal requirement to consult with employees if you think a redundancy situation is likely to occur. Even in a genuine redundancy situation a termination of employment might be regarded as an unfair dismissal where, for example, another post offered to someone else should have been available to the employee being made redundant, or where there were

two or more employees and only one of them has been selected for redundancy on an unfair basis. Competent professional advice should be obtained before starting any redundancy process.

## UNFAIR DISMISSAL

If an employee's conduct or performance is unsatisfactory, great care must be taken to ensure that the correct procedure is followed before taking action to dismiss. Employees usually need to complete two years' service before they can claim unfair dismissal, although there are exceptions to this. A claim for unfair dismissal can arise, even when it seems that the dismissal was justified, if the correct procedures have not been followed. Unfair dismissal claims have been upheld even where the employee has resigned. In any cases of doubt it is wise to obtain competent professional advice.

The disciplinary and grievance procedures at **Annexes 6 & 7** set out what should be the normal practice.

## REFERENCES

Before a church takes on a worker it is important that adequate written references are obtained.

Where a person is to work with children, young people or adults at risk, special care is needed and in this case please refer to the safer recruitment guidelines in *Safe to Grow* and *Safe to Belong* which can be found here: [www.baptist.org.uk/safeguarding](http://www.baptist.org.uk/safeguarding).

There are many advantages in obtaining a verbal reference from a previous or present employer, but in all cases written references should also be obtained.

If the church is asked to give a reference for an employee, this should only be given by a responsible church officer and only to someone who has a good reason to ask for it.

The reference must be accurate but also reasonable and fair, so must be given by someone who knows the facts. Otherwise, the church could be involved in a claim for damages, whether or not a disclaimer is given. A worker is not entitled to receive a copy of any reference given from the church giving it but may be entitled to obtain a copy from a receiving church or employer. Again, in difficult cases seek competent professional advice.

## PREVENTION OF ILLEGAL WORKING

All employers are required to make basic document checks on every person they intend to employ to ensure that they are not employing an illegal worker. A Church which does not check properly and takes on someone who cannot validly work in this country can be liable for a fine of up to £20,000.

By carrying out document checks you will ensure that you only employ people who are legally allowed to work for you, and you will also have a **statutory excuse** against payment of a large fine if a person turns out to be an illegal worker.

You should carry out checks on **all** people **before** they start working for you to ensure you avoid discrimination. You should not make presumptions about a person's right to work in the UK on the basis of their background, appearance or accent.

The documents that are acceptable for proving someone has the right to work in the UK are split into two lists. These lists are called List A and List B and can be found at Annex 5. Any of the documents, or specified combinations of documents, described in List A show that the holder has an **ongoing** right to work in the UK. Any of the documents, or specified combinations of documents, described in List B show that the holder has a right to work in the UK for a **limited period of time**.

You should not accept a National Insurance number on its own in any format as this does not provide acceptable evidence of a right to work in the UK.

You must ask for and be given one of the single documents, or specified combinations of documents from **List A or List B**.

**You must only accept original documents.** For each document you must take reasonable steps to check that it is genuine. You must take a copy of the relevant pages of the document in a format which

cannot later be altered. You must then keep a record of every document you have copied.

Further information on specific cases can be sought from the Sponsorship and Employers' Helpline on 0300 123 4699 or: [UKBApublicenquiries@ukba.gsi.gov.uk](mailto:UKBApublicenquiries@ukba.gsi.gov.uk).

The UKBA website information on preventing illegal working is here:

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/preventingillegalworking/>

## **WORKING TIME REGULATIONS**

These regulations apply to all workers but not to ministers in a pastoral appointment.

Where the worker is a genuine volunteer with no legal entitlement to be paid, these regulations will not apply. It is therefore important for the church to be able clearly to distinguish between workers/helpers who are genuinely prepared to work for no reward and those who work on the understanding that they will receive some pay, whatever it may be called.

The Working Time Regulations provide for a worker to be entitled to:

- a maximum weekly working time of 48 hours (averaged over a 17 week period);
- regulation of any night working;
- a weekly minimum rest period of not less than 24 hours in each 7 day period and a minimum daily rest period of 11 consecutive hours in any 24 hours;
- rest breaks where the daily working time is more than 6 hours;
- annual leave of 28 days (including public holidays) with the prohibition of money being paid in lieu of taking holidays, save on termination of employment;
- a worker who is aged 16 or 17 may only work 8 hours a day and 40 hours per week. They should not work between 2000 hours and 0600 hours. If the worker is contractually obliged to work until 2300 hours, they may not then work between 2300 hours and 0700 hours.

## **NATIONAL MINIMUM WAGE**

Any worker aged 25 or over is entitled to be paid a minimum of the National Living Wage of £7.50 per hour (as of April 2017).

There is a national minimum wage of £7.05 per hour for any person aged 21 to 24 (as of 1 April 2017). The wage for those aged 18-20 is £5.60 per hour. The development rate for 16 and 17 year olds is £4.05 per hour. There is also an apprentice rate of £3.50 per hour for apprentices aged 19 or under, or aged 19 and over and in the first year of their apprenticeship). These figures are reviewed annually.

The calculation of the minimum wage is to be over a 'reference' period, normally that of the interval of payment. The hours worked during that period have to be, overall, paid at not less than the minimum wage. The pay level is that of gross pay before deductions.

In calculating the minimum wage, it is the average hourly rate over the reference period which is relevant for deciding whether the minimum wage has been paid. Two figures therefore need to be established: the total pay received in the relevant pay reference period and the total number of hours worked during that period. It may therefore be possible for some hours in a pay reference period to be paid at below the minimum wage and for some hours to be paid at a rate above the minimum wage so long as the average hourly rate over the whole pay reference period is equal to or greater than the minimum wage.

Accommodation if provided for an employee may count at the rate of £6.40 per day up to a maximum allowable amount of £44.80 per week (as of 1 April 2017).

No other benefit in kind will count towards the minimum wage. For example, the payment of other accommodation outgoings, such as council tax, water rates, electricity or any other benefit, do not count

towards the minimum wage.

Travel between home and the normal place of work is not treated as working hours. However, travel necessitated by the work and rest time during the travel has to be paid at the national minimum wage rates.

All employers are required by law to ensure that employees receive at least the minimum wage. Deliberate failure to pay the minimum wage is a criminal offence and employers who do not pay it face a penalty of up to £20,000 per employee. Employers must keep sufficient records to be able to demonstrate that their employees are not being paid less than the minimum wage and these records must be available for inspection.

## **VOLUNTARY WORKERS**

Individuals performing services on a voluntary basis for a church or other charitable body may be reimbursed expenses incurred in carrying out such work and HMRC have stated that they will not seek to charge tax on the payment of reasonable expenses, including travel expenses within the usual approved limits. However, if payment is also made for services rendered, then the whole amount is potentially subject to income tax and NICs and will need to be reported under the PAYE provisions. A volunteer may be provided with any meals or accommodation which is reasonable in the particular circumstances but the payment of regular pocket money or of a lump sum unrelated to a volunteer's actual expenses should be avoided

The same care should be taken in the recruitment of volunteers as paid employees and similar standards should apply.

## **PROVISION OF ACCOMMODATION**

If accommodation is provided for an employee (such as a church caretaker) for the better performance of the duties, or for security reasons, it is important to ensure that the terms of occupation are correctly dealt with, and **Annex 3** to these guidelines sets out suggested provisions. A church could find itself in legal and financial difficulty if the use of accommodation is given without proper consideration and documentation.

## **DISCRIMINATION**

Tribunals which deal with employment issues are also empowered to award damages, regardless of the length of employment, where it can be established that a worker has been the subject discrimination on the grounds of their marriage or civil partnership status, pregnancy or maternity, disability, race, sex or sexual orientation, religion or belief, age or gender reassignment. For this and other good reasons, it is important for a church to adopt an appropriate Equal Opportunities Policy and for this Policy to be known and observed by all those who are concerned with it. It should be noted that although Ministers may not be regarded as employees for the purposes of unfair dismissal claims according to the circumstances, they may still be covered by discrimination laws.

**Annex 4** is a suggested Policy which can be used by the church as the basis for an Equal Opportunities Policy.

If there is any suggestion of harassment on grounds of marriage or civil partnership status, pregnancy or maternity, gender reassignment, age, sex, race, disability, religion/belief or sexual orientation this should be investigated and dealt with promptly. Failure to do so could involve the church in a serious discrimination claim against them. Churches should also be careful not to discriminate against people who have made complaints of discrimination, as this could also result in a claim against them for victimisation.

Direct discrimination occurs where someone is treated less favourably than others are, or would be, treated for a reason related to marriage or civil partnership status, pregnancy or maternity, gender reassignment, age, sex, race, disability, religion/belief or sexual orientation (the "Protected Characteristics").

Indirect discrimination occurs where an individual is subject to a provision, criterion or practice which one protected group finds more difficult to comply with than another (even though on the fact of it the

provision is neutral). For example, a requirement that a particular role is full time could have a greater adverse effect on women as they are generally accepted as taking primary childcare responsibility. If the criteria cannot be objectively justified for a reason unconnected with one of the protected characteristics in question, it would be indirectly discriminatory.

Discrimination also includes victimisation (less favourable treatment because of action taken to assert legal rights relating to discrimination or to assist a colleague in that regard).

Harassment occurs when a person is subjected to unwanted conduct related to a protected characteristic which has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the person.

## **DISABILITY DISCRIMINATION**

It is unlawful for a church:

- to treat a disabled person less favourably because of something arising in consequence of their disability, if it cannot show that the treatment in question is justified;
- to fail to make reasonable adjustments to its premises or other arrangements for a disabled person;
- to treat a disabled person less favourably than someone who is not disabled in that way and whose circumstances, including skills, are not materially different from those of the disabled person.

## **RELIGION OR BELIEF OCCUPATIONAL REQUIREMENT**

Organisations which have an ethos based on religion or belief can rely on an occupational requirement (OR) for employees to be of a particular religion where, having regard to the ethos and the nature and context of that work:

- it is an occupational requirement;
- the application of the requirement is a proportionate means of achieving a legitimate aim;
- the person to whom the requirement is applied does not meet it (or the employer has reasonable grounds for not being satisfied that the person meets it).

Any church which wishes to claim an occupational requirement based on religion or belief should ensure that applicants are required to sign up to and continue to accept the BUGB Declaration of Principle and the Five Core Values or a similar document that defines the beliefs you expect someone working under an occupational requirement to hold. Churches are also suggested to adopt their own Code of Conduct, an example of which is at **Annex 11** of this document, in order to demonstrate to its employees the behaviour expected in roles where you claim an occupational requirement.

(Those on the Register of Nationally Accredited Church Workers will be subject to an alternative code of conduct that reflects their accredited status.)

Where the job in question is not obviously 'spiritual', churches should ensure that they can explain why the context of the employment is such that the job must be held by a Christian. The Church would then have to show that it is a proportionate means of achieving a legitimate aim i.e. is there any less discriminatory way of achieving the same aim. The job description should then include all aspects of the job which result in a requirement for it to be held by a Christian.

ACAS Guidance: determining an OR

- the employer must be able to show that being of a specific religion or belief is a central requirement of the job and not just one of many relevant factors;
- when considering applying such a requirement, the employer must look at each post individually both in terms of the duties of the job and the context in which it is carried out;

- employers should not expect to apply a blanket occupational requirement to all its posts;
- employers should consider whether there are alternatives to applying an occupational requirement. For instance, if only a small part of the jobs needs someone from that religion then it may be possible to redistribute work or re-organise roles in such a way as to avoid applying a religious requirement to a particular post;
- employers should be clear about the link between the requirements of the job and the need to maintain the church's/projects ethos;
- employers can reasonably expect their staff to keep to the organisational values and culture and should bear in mind that people may be able to maintain those values and culture without actually belonging to the particular religion or belief;
- employers should be clear about the link between the requirements of the job and the need to maintain the organisation's ethos as, in the event of an Employment Tribunal claim on the grounds of religious or belief discrimination, the burden of proof will be on the employer to show the OR

A workbook entitled 'Christian Ethos Audit' has been published by the Baptist Union of Great Britain in partnership with 'Faithworks'. It is recommended that churches use this when considering their need for a Christian in a specific role. It is available as a BUC Guidelines leaflet L09 *Christian Ethos Audit* and can be downloaded from the BUGB website.

## **SEXUAL ORIENTATION EXEMPTION**

There is a limited exception that allows discrimination on the grounds of sexual orientation where employment is for the purposes of an organised religion. This same exemption can also be used where there is a requirement to be of a particular sex; not to be a transsexual person; not to be married or a civil partner; not to be married to, or the civil partner of, a person who has a living former spouse or civil partner; and relating to circumstances in which a marriage or civil partnership came to an end.

A church which is employing for the purposes of an organised religion can discriminate on the grounds of sexual orientation where it is necessary to do so either:

- So as to comply with the doctrines of the religion; or
- Because of the nature of the employment and the context in which it is carried out, so as to avoid conflicting with the strongly held religious convictions of a significant number of the religion's followers.

In order to rely on this exception the employer must believe that the individual does not meet the requirement relating to sexual orientation and it must be reasonable for them to have that belief.

### **Can this exception be applied to all church staff?**

As stated above, this exception relates to those posts whose primary purpose is for organised religion. This is a tightly drawn exception which will allow an occupational requirement (OR) to be applied to those posts which are for the purposes of organised religion. As an example, the exception may be used where an evangelical church requires its ministers to be married or heterosexual if this enables the church to avoid a conflict with the strongly held religious convictions of its congregation. However, in light of the wording of the regulations, wider application of the exception would depend on the extent to which it can be demonstrated that any other role has, as its primary purpose, organised religion. For example, a Christian church wanting to employ two youth workers, one to provide teaching on the Bible and the other to purely organise sporting activities could probably only use this exception in relation to the first post.

### **Can this exception be applied to Christian organisations?**

This exception applies where the employment is for the primary purpose of organised religion. It is generally understood that "organised religion" does not mean "religious organisations" since the primary

purpose of religious organisations may not be to represent or lead organised religion. However, once again, as this legislation has not yet been tested by case law, the answer to this particular question can, at this stage, only be determined by considering the extent to which the post in question is for the purposes of an organised religion.

Any church who wishes to rely on this exemption should consider setting out its doctrinal position to show why they consider it necessary to discriminate on the grounds of sexual orientation.

The church will need to consider these issues when contemplating creating a post and undertaking a recruitment process. They may like to take account of the statement contained in the Ministerial Recognition Rules Appendix 3, point 5.1.2.

## **DISCRIMINATION ON THE GROUNDS OF AGE**

It is unlawful to discriminate on grounds of age unless this discrimination can be justified as a proportionate means of achieving a legitimate aim. There are limited exceptions covering enhanced redundancy payments, payment of the national minimum wage, retirement and benefits related to length of service (e.g. increased holiday or sick pay).

Redundancy payments need to mirror the statutory redundancy scheme but can be enhanced for particular employees so long as the criteria for enhanced redundancy payments and the amount for each employee is calculated on the same basis.

There is an exception for employers paying the national minimum wage. Employers should ensure that it does not pay a different rate of pay to employees within the NMW age bands because of their age.

There is a general exception covering differences in benefits resulting from length of service where the length of service does not exceed 5 years. Employers will still be able to differentiate in this situation if they can show that they reasonably believe that there is a business need for the difference (e.g. encouraging loyalty or motivation or rewarding experience).

## **RETIREMENT**

The Church will need to decide whether to adopt a fixed retirement age for its employees (or for certain roles) or whether to remove any reference to retirement at a certain age and have no fixed age.

In most church employment situations it is not possible to adopt a fixed retirement age. Most retirement policies do not specify a fixed retirement age. The nationally recognised default retirement age of 65 no longer applies. We expect that in most cases a flexible retirement date will apply and a retirement policy for 'no fixed retirement age' can be found at **Annex 8**.

If it is the decision not to have a fixed retirement age, the Church will need to ensure that they implement a proper performance management procedure of staff and build discussions regarding future plans into appraisal processes.

If the Church decides to have a fixed retirement age, the decision to choose that age will need to be objectively justified in order to avoid claims of age discrimination. Objective justification means showing that the age chosen is a proportionate means of achieving a legitimate aim. Having established an objectively justified retirement age, you should ensure that you also follow a fair procedure in dismissing the employee for that reason in order to avoid claims of unfair dismissal. We strongly suggest that you seek specialist legal advice before proceeding with this route.

Draft retirement policies are produced at **Annex 8 and Annex 9**.

## **RECRUITMENT OF EX-OFFENDERS**

We have produced a sample Policy Statement on the Recruitment of Ex-Offenders. This is produced as **Annex 10**.

It is vital that this Policy Statement, or similar statement, is included in the pack of information issued to persons enquiring about the post. It is as important as the job specification and other information.

For an expanded statement please refer to information on the Disclosure and Barring Service website. Whilst this is not designed with Baptist churches in mind, it does provide an insight into the need to ensure the recruiting process is fair and that the confidentiality of the applicant is carefully safeguarded.

<https://www.gov.uk/government/publications/dbs-sample-policy-on-the-recruitment-of-ex-offenders/sample-policy-on-the-recruitment-of-ex-offenders>

## **SICK LEAVE**

As a minimum, most employees are entitled to be paid statutory sick pay for up to 28 weeks' absence. Churches may decide in a particular situation that an employee will continue to be paid their salary during a period of absence. If this is done, the church should make it clear that this payment is discretionary.

If, however, a church wishes to pay contractual sick pay as part of their normal package of benefits for staff, the contract should make the amount of the payments and their duration clear. For example, you could state that an employee will be entitled to receive two months' full pay and then two months' half pay during sickness absence in any twelve month period.

## **MATERNITY LEAVE**

Pregnant employees should be given paid time off work to attend appointments for antenatal care. A subsequent period of 26 weeks' additional maternity leave following the initial period of 26 weeks ordinary maternity leave is now available to all employees irrespective of length of service.

Statutory maternity pay is payable at the rate of 90% of the employee's normal weekly earnings for the first six weeks and at a flat rate of £140.98 (or 90% of the employee's normal weekly earnings if that is lower) for up to 33 further weeks.

In order to claim maternity pay an employee must have:

- 26 weeks' continuous service up to and including the 15th week before the expected week of childbirth;
- Become pregnant and have reached or given birth before reaching the start of the 11th week before the expected week of childbirth;
- Have started a period of maternity leave
- Average weekly earnings for the 8 weeks up to and including the 15th week before the expected week of childbirth equal to at least the lower earnings limit for the payment of primary class one national insurance contributions, currently £113.
- Given 28 days' notice to her employer of the date when she expects liability for statutory maternity pay to begin or if 28 days' notice was not reasonably practicable, such lesser notice as was practicable;
- Produced medical evidence of the pregnancy and of the expected week of childbirth.

## **PATERNITY LEAVE**

Fathers who have completed 26 weeks' continuous service ending with the week preceding the fourteenth week before the expected week of childbirth may take two weeks' paternity leave within 56 days of the child's birth.

The father should be paid statutory paternity pay at the rate of £140.98 per week (or 90% of the employee's normal weekly earnings if that is lower).

Fathers must give their employer 28 days' notice of their intention to take paternity leave.

## **SHARED PARENTAL LEAVE**

Employees may be entitled to Shared Parental Leave (SPL) and Statutory Shared Parental Pay (ShPP) where they are the parents of children born or adopted after 5 April 2015.

Employees can start SPL if they're eligible and they or their partner end their maternity or adoption leave or pay early. The remaining leave will be available as SPL. The remaining pay may be available as ShPP. (ShPP is paid at the same rate as SMP). Sometimes only one parent in a couple will be eligible to get Shared Parental Leave (SPL) and Statutory Shared Parental Pay (ShPP). This means that they can't share the leave.

Eligible employees can take SPL in up to 3 separate blocks. They can also share the leave with their partner if they're also eligible. Parents can choose how much of the SPL each of them will take.

For example, a mother could end her maternity leave after 12 weeks, leaving 40 weeks (of the total 52 week entitlement) available for SPL. If both the mother and her partner are eligible, they can share the 40 weeks. They can take the leave at the same time or separately.

SPL and ShPP must be taken between the baby's birth and first birthday (or within 1 year of adoption).

To qualify for SPL, the child's mother (or adoptive parent) must be eligible for either [maternity leave or pay](#), [Maternity Allowance](#) or [adoption leave or pay](#)

Your employee must also:

- have worked for you continuously for at least 26 weeks by the end of the 15th week before the due date (or date they are matched with their adopted child)
- still be employed by you while they take SPL
- give you the [correct notice](#) including a declaration that their partner meets the employment and income requirements which allow your employee to get SPL

This is a new entitlement – please seek advice if you are approached by an employee who wishes to exercise this entitlement.

## **ADOPTIVE PARENTS**

Parents who adopt a child will be entitled to one year's adoption leave commencing either on the date on which the child is placed for adoption or on a date no more than 14 days before the expected date of placement.

To be eligible for adoption leave, a parent must have completed 26 weeks' service by the time they are matched with a child.

Where a couple jointly adopt, only one of them will be entitled to take adoption leave but the other parent will be entitled to take statutory paternity leave.

The employee must give the employer notice of their intention to take adoption leave within seven days of being notified of having been matched with a child.

Statutory adoption pay should be paid for 39 weeks at the same flat rate (currently £140.98 or 90% of the employee's normal weekly earnings if that is lower) as statutory maternity pay.

There are no specific rights for foster parents.

## **PARENTAL LEAVE**

Employees with at least one year's continuous service are entitled to take unpaid parental (called 'Ordinary Parental Leave') for the purpose of caring for the child if they are the parent of a child who is under 18 years old, or if they have adopted a child under the age of 18. Employees may take a maximum of 18 weeks' unpaid parental leave. The employee's right to take leave lasts until a child's 18th birthday. Ordinary parental leave is available for each child. If an employee has, for example, two children under the age of 18, he or she may take 18 weeks' unpaid parental leave in respect of each of those children.

Leave can be taken in blocks or multiples of one week (unless the child has a disability in which case leave may be taken in blocks of one day) and employees may be required to give notice of their intention to take leave. Employees may only take four weeks' leave in any twelve-month period and leave may be postponed by the church for up to six months where the work of the church would be unduly disrupted. However, leave cannot be postponed when the employee gives notice to take it immediately after the time the child is born or is placed with the family for adoption.

### **TIME OFF FOR DEPENDANTS**

Employees are entitled to a reasonable amount of unpaid time off in order to take action which is necessary –

- (a) to provide assistance on an occasion when a dependant falls ill, gives birth, is injured or assaulted;
- (b) to make arrangements for the provision of care for a dependant who is ill or injured;
- (c) in consequence of the death of a dependant;
- (d) because of the unexpected disruption or termination of arrangements for the care of the dependant; or
- (e) to deal with an incident which involves a child of the employee and which occurs unexpectedly in a period during which no educational establishment which the child attends is responsible for him.

This right does not arise unless the employee informs the church of the reason for their absence as soon as reasonably practicable and tells the church how long they expect to be absent. Please note that this is intended as short term absence to enable other care arrangements to be made.

For these purposes a dependant means a spouse, a child, a parent, or a person who lives in the same household as the employee, otherwise than by being his employee, tenant, lodger or boarder.

For the purposes of (a) and (b) above dependant also includes any person who reasonably relies on the employee for assistance on an occasion when the person falls ill or is injured or assaulted or to make arrangements for the provision of care in the event of illness or injury. For the purpose of (b) above dependent includes any person who reasonably relies on the employee to make arrangements for the provision of care.

### **FLEXIBLE WORKING**

Employers have a duty to consider requests from employees for flexible working, which could include part-time work, working from home or job-sharing. To be eligible an employee must have been continuously employed for 26 weeks at the point of making the request.

The employee must specify in a written application the change in their contract that they seek and the date on which they would like the change to be implemented. The employee must also specify the effect that they think the change to be implemented. The employee must also specify the effect that they think the change will have on the employer and suggest how these effects could be dealt with. Each employee may only make one application per year.

The employer must handle the whole process, including any appeal, within a three month period, although it is sensible to deal with such matters as quickly as possible.. Once a written request has been received, the employer should arrange to meet with the employee, and the employee has the right to be accompanied. The application must be considered carefully but may be refused on a number of statutory grounds including the burden of additional costs, a detrimental effect on the ability to meet 'customer demand', the inability to reorganise work among existing staff and a detrimental impact on quality or performance.

The employer must give their decision to the employee in writing. Where the decision is to refuse the application, the employer must state which of the grounds for refusal are considered to apply, explain

why those grounds apply in relation to the application, and advise the employee of their right to appeal. An employee does have the right to appeal against the employer's decision.

If a flexible pattern of working is agreed this will need to be confirmed formally. Once a flexible arrangement is agreed, the employee does not have a right to revert to the previous arrangement. However, you may wish to use an initial trial period during which both employer and employee can test the new arrangements and can choose to revert to previous terms.

If there is a failure to comply with the procedure the employee may submit a claim to the employment tribunal. If the claim is successful, the tribunal may order the employer to reconsider the request and award compensation of up to eight weeks' pay (which is currently capped at £464 per week).

## **DISCIPLINARY, DISMISSAL AND GRIEVANCE PROCEDURES**

### ACAS Code

The key points of the ACAS code are incorporated within the model disciplinary and grievance procedures at **Annexes 6 & 7**. Further guidance may be taken from the ACAS Code and accompanying guidance if of interest. An organisation will not make itself liable to employment tribunal proceedings if it fails to follow the Code, however an employment tribunal must take the ACAS Code into account when it considers whether an employer has acted reasonably or not, in dealing with either disciplinary or grievance issues.

## **HEALTH AND SAFETY**

If the church employs someone (apart from a minister in a pastoral position) to work on church premises then the church premises will be regarded as 'a place of work' for the purposes of the Health and Safety at Work Act 1974. Reference should then be made to Guidelines leaflet L10 *Health & Safety and Fire Precautions* in order that the church might take the necessary steps to comply with the law.

## **CHARITY LAW**

The Charity Trustees of a church (usually the ministers, deacons, elders, or leadership team) (See Guidelines Leaflet C01 *Charity Legislation and Churches*.) It is usually the responsibility of the charity trustees to deal with all matters relating to employment. Charity law does not usually permit a charity trustee to be a paid worker and this prohibition will extend to the spouse of a trustee. It is therefore not usually appropriate for a paid worker (apart from the pastor of a church who is regarded as a special exception) to be a member of the diaconate but please refer to C01 *Charity Legislation and Churches*.

If a church sponsors or operates a separate charitable organisation or trust for a social project, for example a playgroup, and that separate organisation has employees then in such cases the trustees of the separate organisation (or if it is a company the directors) will be the employer and will be responsible for complying with the law. See, for example, Guidelines Leaflet L02 *Pre-Schools*.

## **INSURANCE**

If a church has a paid worker (and in this case a minister does count as an employee) there must be Employer's Liability cover and the law requires a certificate to this effect to be displayed on the church premises. The Baptist Insurance Company Plc are able to give advice on the cover required and to provide the appropriate certificate for display.

## **PENSIONS PROVISION AND AUTO ENROLMENT**

Under the Government's auto enrolment scheme, employers must automatically enroll workers who earn more than £10,000 into an appropriate pension scheme, although individuals can choose to opt out. You may be required to offer workers who earn between £5,876 (as at April 2017) and £10,000 the opportunity to join a pension scheme. You should take professional advice on your obligations.

The following link will direct you to the Baptist Pension Scheme website which has further information for employers in the Baptist Pension Scheme:

<http://www.baptistpensions.org.uk/content/pages/documents/1430726244.pdf>

## **DATA PROTECTION**

Any personal details about employees or workers will need to be treated with care and comply with the requirements of the Data Protection Act 1998.

Please refer to our Guidelines Leaflet L13 *Data Protection*.

## LEGAL AND OPERATIONS TEAM

### GUIDELINES

#### L08 - EMPLOYMENT

#### ANNEX 1

### **SUMMARY OF WRITTEN PARTICULARS REQUIRED TO BE SUPPLIED NOT LATER THAN 2 MONTHS AFTER THE BEGINNING OF THE WORKER'S EMPLOYMENT**

- 1 The name of the employer and employee.
- 2 The date of commencement of the employment.
- 3 A statement as to whether any previous employment is treated as being continuous with the present employment and if so the date when the continuous period of employment is deemed to have commenced (for example, where a person has been already employed to do one job in the church and is now employed to do a different job).
- 4 The employee's job title or job description.
- 5 The employee's place of work or, if more than one, the employer's address plus an indication that the employee is expected to work at various (specified or unspecified) addresses.
- 6 The scale or rate of remuneration or method of calculating remuneration and the intervals at which remuneration is paid.
- 7 Any terms and conditions relating to hours of work including any terms and conditions relating to normal working hours.
- 8 Any terms and conditions relating to entitlement to holidays (including public holidays) and holiday pay, including sufficient information to enable the parties to calculate the employee's entitlement to holidays and to accrued holiday pay on the termination of employment.
- 9 Any terms and conditions relating to incapacity for work due to sickness or injury, including any provision for sick pay.
- 10 Any collective agreements which directly affect the terms and conditions of the employment including, where the employer is not a party, the persons by whom they were made.
- 11 Where the employee is required to work outside the UK for a period of more than one month, (1) the period for which he is to work outside the UK, (2) the currency in which remuneration is to be paid while he is working outside the UK, (3) any additional remuneration payable to him, and any benefits to be provided to or in respect of him, by reason of his being required to work outside the UK, and (4) any terms and conditions relating to his return to the UK. If the employee is not required to work outside the UK, this should be stated.
- 12 Any terms and conditions relating to pensions and pension schemes.
- 13 The length of notice which the employee is required to give and entitled to receive to terminate the employment.
- 14 For temporary contracts, the period for which the contract is expected to continue and, for fixed term contracts, the date on which the contract is to end.
- 15 A person to whom the employee can apply for the purpose of seeking redress of any grievance relating to employment (other than health and safety) and the manner in which any such application should be made.

16 A note specifying or referring to any disciplinary rules (other than health and safety) and any disciplinary or

dismissal procedure applicable to the employee and the person (whether by name, description or job title) to whom an employee can appeal against any disciplinary action taken against them and the manner in which such an application should be made.

**NOTES:**

**Health and safety rules, policies and procedures should also be specified.**

**The details in 1 to 8 should be in a single document (for example the letter of appointment, providing this deals with the matters fully). The remaining particulars may be given in one or more separate documents, for example, a document containing standard terms and conditions. Where there are no particulars for items 1 to 14, this fact must be stated.**

## **LEGAL AND OPERATIONS TEAM**

### **GUIDELINES**

L08 - EMPLOYMENT

### **ANNEX 2**

#### **SAMPLE LETTER OF APPOINTMENT**

#### **THE ..... BAPTIST CHURCH**

Dear

I am writing to confirm your appointment as (Job Title/Description) by the ..... Baptist Church.

I enclose two copies of a document which sets out details of the arrangements between us.

Please check the document carefully and return the copy with the receipt completed on the final page. If you have any questions please do contact me so we can discuss these together.

I am also enclosing a copy of the Church's Policy documents relating to: -

- Equal opportunities

(others may be added as appropriate e.g. Health and Safety)

We are delighted that you will joining us and look forward to working with you.

Yours sincerely

**LEGAL AND OPERATIONS TEAM**

**GUIDELINES**

**L08 - EMPLOYMENT**

**ANNEX 3**

**THE.....BAPTIST CHURCH**

**STATEMENT OF TERMS OF APPOINTMENT**

**Section 1 – Appointment Title, Management and Training**

- 1.1 The title of your appointment is ..... And a copy of the job description for this role is attached.
- 1.2 You may be expected to undergo training at the church's expense and during normal working hours to maintain and enhance your skills.
- 1.3 Your Supervisor for your employment will be.....

**Section 2 – Place of Work & Duration**

- 2.1 Your normal place of work is .....
- 2.2 Your place of work may comprise several locations which may, after consultation with you, be varied from time to time during the course of your employment. You will not be required to work outside the United Kingdom.
- 2.3 Your employment will begin on ..... and may be terminated in accordance with the provisions of section 8 of this agreement.

**OR**

Your employment will begin on ..... Your ongoing employment is dependent upon sufficient funding continuing to be made available to the church by ..... and should that funding (or any specific substitute funding) cease your employment will come to an end. In any event, your employment may be terminated in accordance with the provisions of section 8 of this agreement.

**OR**

Your employment is in respect of the specific task/purpose of ..... When that task/purpose is completed, your employment will come to an end. In any event, your employment may be terminated in accordance with the provisions of section 8 of this agreement.

- 2.4 For the purpose of establishing your employment rights your continuous employment is from.....and does not include any previous employment/includes the period of your previous employment with.....

**OPTIONAL**

- 2.5 Your continued employment is dependent on your adherence to the beliefs and ethos of a Baptist

Church and your life being led in accordance with a good Christian testimony.

***This may not be appropriate to all employees and all posts.***

**Section 3 - Pay and Expenses**

- 3.1 You will be paid at the rate of £..... per hour/week/year. Payment will be made weekly /monthly/quarterly/in arrear/in advance by cheque/cash/direct credit to your bank account. Any alteration in pay will be notified to you in writing by the church.
- 3.2 You will be refunded with the amount of any expenses which you incur in the course of your employment under the terms agreed with the church.
- 3.4 Subject to any relevant statutory restrictions for the time being in force the church may deduct from your pay:
  - income tax and national insurance.
  - a contribution you may be required to make as a member of a contributory pension scheme in respect of your employment.
  - money which you are required to repay in respect of excess holiday taken at the effective date of the termination of your employment.
- 3.5 We will write to you separately to confirm your pension details and contribution levels.

**Section 4 – Hours of Work**

4.1 Your basic working hours are ..... per week and your normal working hours are:

<b>Working Day</b>	<b>From</b>	<b>To</b>	<b>Breaks (if any)</b>
Sunday			
Monday			
Tuesday			
Wednesday			
Thursday			
Friday			
Saturday			

Because the nature of the work is flexible it may vary from week to week. Some evening and weekend work may be involved. If you work overtime you will be allowed time off in lieu/pay for that overtime at the rate of \*\*% of your hourly rate.

**OR**

Due to the nature of your work it is not possible to specify the hours of normal working but it is

expected that you will work a minimum of \*\* hours per week. If you are required to work unusual hours you will be allowed time off in lieu.

## **Section 5 – Holidays and Holiday Pay**

- 5.1 The church's holiday year is from [1 September to 31 August]. Your paid holiday entitlement is ... days per holiday year, which includes all statutory bank holidays. [During the period from the commencement of your employment until the beginning of the holiday year, your holiday entitlement will accrue at a rate of one twelfth of your annual entitlement on the first day of each month of that year]. In calculating holiday entitlement fractions of less than half a day are rounded up to the nearest half-day.
- 5.2 Holidays will be taken by agreement with your Supervisor to suit the requirements of your work. [If your duties require you to work on a public holiday you will be entitled to take another day's holiday by arrangement with your Supervisor.] You are encouraged to take all of your holiday entitlement within the relevant holiday year. [You are not entitled to carry forward holiday entitlement from one holiday year to the next] OR [In exceptional circumstances you will be permitted to carry forward ..... days [NOTE: this can only refer to holiday entitlement in excess of the statutory minimum holiday entitlement i.e. 5.6 weeks including bank holidays] holiday entitlement from one holiday year to the next by agreement with [your Supervisor].
- 5.3 You may be required to take holiday during your period of notice. On the termination of your employment you will be entitled to pay in lieu of outstanding holiday entitlement or be required to repay to the church any salary received for holiday taken in excess of your actual entitlement. For these purposes your holiday entitlement in the final holiday year will accrue at a rate of one twelfth of your annual entitlement for each completed month of service and the basis for payment or repayment of holiday shall be [1/522 (this would be relevant for a five day working week)] of your annual salary for each half day. Repayment will normally be made by deduction from any sums payable to you by the church.

## **Section 6 – Sickness and Sick Pay**

- 6.1 If you are absent from work by reason of sickness you must notify your Supervisor as soon as reasonably practicable.
- 6.2 You must keep your Supervisor regularly informed of the reason for your continued absence.
- 6.3 Immediately following your return to work after a period of absence through sickness not exceeding seven days you must complete a self-certification form which is available from your doctor's surgery or from the local office of the Department for Work and Pensions. This form will be retained in your employment record.
- 6.4 If your sickness persists for more than seven consecutive days (including weekends and holidays) you must on the eighth day of sickness complete and return to your Supervisor the self-certification form and thereafter provide a doctor's statement for absence (called a 'fit note') from the eighth consecutive day of sickness.
- 6.5 You will be paid statutory sick pay in accordance with such statutory provisions as may then be in force subject to your compliance with the requirements of this section. [In addition and subject to your compliance with the requirements of this section, the Church will pay an additional amount not exceeding your normal pay for a period of ..... weeks (.... weeks during your first year of employment) in any 12 month rolling period.]
- 6.6 Your qualifying days for statutory sick pay purposes are the normal working days specified or, if not so specified, are Sunday to Saturday inclusive.

## **Section 7 – Grievance and Disciplinary/Dismissal Procedure**

7.1 If you consider that you have any grievance arising out of your employment you should give written details of your grievance to your Supervisor. Your Supervisor will then arrange for your grievance to be dealt with in accordance with the Church's grievance procedure which is available from the [Church Secretary]. This procedure does not form part of your contract of employment and another procedure may, at the discretion of the Church, be used. You may be accompanied at any meeting relating to a grievance by a colleague or a trade union representative.

7.2 The disciplinary procedure which applies to you is available from the [Church Secretary] but does not form part of your terms and conditions of employment. If you are dissatisfied with any decision to discipline or dismiss you, you should appeal to the Church Secretary who will arrange for your appeal to be dealt with in accordance with either the disciplinary or the dismissal procedure, although, at the discretion of the Church, an alternative procedure may be followed.

## **Section 8 – Termination of Employment**

8.1 Unless your employment is terminated by reason of gross misconduct, the notice required to be given by the church to terminate your contract of employment will, subject to paragraph 8.2 be the longer of:

8.1.1 (number of weeks/months – usually at least one month for admin roles, up to three months for management roles): or

8.1.2 the minimum statutory period, namely:

one week's notice if your period of continuous employment is less than two years:

one week's notice for each year of continuous employment if your period of continuous employment is two years or more but less than twelve years:

twelve weeks' notice if your continuous employment is twelve years or more.

8.2 The first three/six months of your employment will be regarded as a probationary period. This may be extended before the end of the period by the church if the standard of your work or conduct or absence suggests that a further period of probation is desirable. During the probationary period the church may terminate your employment on one week's notice.

8.3 If you wish to end your employment you should give notice in writing to the church of (number of weeks/months usually at least one month for admin roles, up to three months for management roles).

**NOTE: SECTION 9 SHOULD NOT BE INCLUDED IF ACCOMMODATION IS NOT PROVIDED**

## **Section 9 - Conditions of Residential Occupancy**

9.1 Definitions:

'the premises' means the residential and related accommodation at such address as shall be notified to you in writing.

'the licensors' are the managing trustees of the premises.

9.2 For the better performance of your duties the licensors will permit you to occupy the premises.

9.3 You will:

not use the premises except as your private residence and for such purposes in the course of your employment as may be agreed with the church and in particular not receive guests or other visitors at the premises except at your own or the church's expense;

not do nor allow anything to be done which may be a nuisance or cause annoyance to the licensors or to neighbours or which may invalidate any insurance policy relating to the premises;

take proper care of the premises and of the licensors' fixtures and fittings and forthwith make good any breakages not attributable to fair wear and tear;

vacate the premises immediately on the termination of your employment.

9.4 The licensors will:

permit you to occupy the premises for the duration of your employment;

pay such expenses attributable to your occupation of the premises as have been agreed with the church and stated in your Statement of Terms of Appointment;

maintain the premises in a satisfactory state of repair and external decoration.

9.5 The licensors have the right to enter the premises at all reasonable times for the purposes of their inspection and control.

9.6 The expenses that you are required to pay under clause 9.4 are.....

**OR**

There are no expenses that you are required to pay under clause 9.4.

**Section 10 – Family Friendly Provisions**

10.1 If you or your partner become pregnant you may be entitled to statutory maternity/paternity or parental leave and pay. If you are adopting a child similar rights apply. You may also be eligible for shared parental leave. The church will help you to obtain advice on these matters.

10.2 As your employer, the church has a duty to consider requests for flexible working from all employees with more than 26 weeks' service. The church will help you obtain advice on these matters.

**Section 11 – Statements of Policy**

11.1 You are required to comply with the Church's Health and Safety Policy, Equal Opportunities Policy and other written statements of policy published to you by the church from time to time.

**Section 12 – Collective Agreements**

There are no collective agreements which affect your employment.

**I acknowledge that I have received a copy of this document and agree to its terms.**

**Signed..... Dated.....**

**NOTE:**

**Churches considering any variation of Annex 3 should seek detailed legal advice from a solicitor before proceeding.**

## LEGAL AND OPERATIONS TEAM

### GUIDELINES

#### L08 - EMPLOYMENT

#### ANNEX 4

### THE ..... BAPTIST CHURCH

#### 1 Statement of Equal Opportunities Employment Policy

The Church is committed to the promotion of equality of opportunity in all fields of its activity in accordance with this Policy Statement.

#### 2 Definitions

- 2.1 'Protected Characteristic' refers to sex, sexual orientation, colour, race, nationality or ethnic or national origins, marriage and civil partnership, pregnancy and maternity, disability, age, gender reassignment or religion or belief.
- 2.2 'Direct Discrimination' is where a person is treated less favourably than others are, or would be, for a reason related to one or more of the 'Protected Characteristics'.
- 2.3 'Indirect Discrimination' occurs where an individual is subject to a provision, criterion or practice which one protected group finds more difficult to comply with than another (even though on the fact of it the provision is neutral)

#### 3 The Church's Policy Statement

The Church is an equal opportunities employer and will seek to ensure that:

- 3.1 every job applicant and employee has the right not be treated less favourably as a result of one or more Protected Characteristics except:
- 3.1.1 in relation to religious belief where being a Christian or complying with a requirement related to religious belief is an occupational requirement having regard to the ethos of the Church and the nature of the employment or the context in which it is carried out;
- 3.2 persons already employed will be made aware of the provisions of this policy;
- 3.3 the application of any recruitment, training and promotion policies will be made on the basis of fair and objective criteria and based solely on job requirements and the individual's ability and fitness for that work;
- 3.4 all persons responsible for the selection, management and promotion of employees will be given information and/or training to enable them to minimise the risk of discrimination;
- 3.5 appropriate training will be provided to enable employees to perform their jobs effectively and uphold the commitment to equality of opportunity;
- 3.6 encouragement is given to all employees to take advantage of opportunities for training;
- 3.7 any age limits imposed for entry to training will be objectively justified as a proportionate means of achieving a legitimate aim and will not unnecessarily exclude certain groups of

employees;

- 3.8 recruitment, literature and advertisements will not imply that there is a preference for one group of applicants as against another unless there is an occupational requirement which will be clearly stated and the application of that requirement is a proportionate means of achieving a legitimate aim;
- 3.9 the most effective ways will be employed to bring job vacancies to the attention of potentially disadvantaged groups;
- 3.10 applicants for posts will be given clear, accurate and sufficient information through advertisement, job descriptions and interviews, to enable them to assess their own suitability for a post;
- 3.11 The requirements of job applicants and existing members of staff who have or have had a disability will be reviewed to ensure that reasonable adjustments are made to enable them to enter into or remain in employment with us. Promotion opportunities, benefits and facilities of employment will not be unreasonably limited and every reasonable effort will be made to ensure that disabled staff participate fully in the workplace
- 3.12 employment policies and procedures are kept under review, in appropriate cases by formal monitoring routines, to ensure that they do not operate against the church's Policy Statement;
- 3.13 where it appears that the church's Policy Statement is not being observed the circumstances will be investigated to see if there are any policies or criteria which exclude or discourage employees and, if so, whether these policies and criteria are justifiable;
- 3.14 appropriate action is taken where necessary to redress the effects of any action, policy or criteria which are found to have unjustifiably limited the observance of the church's Policy Statement;
- 3.15 particular care is taken to deal with any complaints of unlawful discrimination and harassment on the grounds of a Protected Characteristic;
- 3.16 a criminal record is not in itself a bar to being appointed to any post. Only relevant offences will be taken into account when appointing to a post where a Disclosure and Barring Service (DBS) check is required.
- 3.17 The requirements of job applicants and existing members of staff who have or have had a disability will be reviewed to ensure that reasonable adjustments are made to enable them to enter into or remain in employment with us. Promotion opportunities, benefits and facilities of employment will not be unreasonably limited and every reasonable effort will be made to ensure that disabled staff participate fully in the workplace

**NOTE:**

**Churches may want to consider whether, for any particular post, the exceptions excluding religious organisations from the normal requirements in relation to sexual orientation discrimination are to be applied.**

## LEGAL AND OPERATIONS TEAM

### GUIDELINES

#### L08 -- EMPLOYMENT

#### ANNEX 5

##### LIST A - DOCUMENTS WHICH SHOW AN ONGOING RIGHT TO WORK

1. A passport showing that the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the United Kingdom and Colonies having the right of abode in the United Kingdom.
2. A passport or national identity card showing that the holder, or a person named in the passport as the child of the holder, is a national of the European Economic Area or Switzerland.
3. A residence permit, registration certificate or document certifying or indicating permanent residence issued by the Home Office, the Border and Immigration Agency or the UK Border Agency to a national of a European Economic Area country or Switzerland.
4. A permanent residence card issued by the Home Office, the Border and Immigration Agency or the UK Border Agency to the family member of a national of a European Economic Area country or Switzerland.
5. A Biometric Residence Permit issued by the UK Border Agency to the holder which indicates that the person named in it is allowed to stay indefinitely in the United Kingdom, or has no time limit on their stay in the United Kingdom.
6. A passport or other travel document endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the United Kingdom, has the right of abode in the United Kingdom, or has no time limit on their stay in the United Kingdom.
7. An Immigration Status Document issued by the Home Office, the Border and Immigration Agency or the UK Border Agency to the holder with an endorsement indicating that the person named in it is allowed to stay indefinitely in the United Kingdom or has no time limit on their stay in the United Kingdom, when produced in combination with an official document giving the person's National Insurance Number and their name issued by a Government agency or a previous employer. Summary guide for employers on preventing illegal working in the UK 15
8. A full birth certificate issued in the United Kingdom which includes the name(s) of at least one of the holder's parents, when produced in combination with an official document giving the person's National Insurance Number and their name issued by a Government agency or a previous employer.
9. A full adoption certificate issued in the United Kingdom which includes the name(s) of at least one of the holder's adoptive parents when produced in combination with an official document giving the person's National Insurance Number and their name issued by a Government agency or a previous employer.
10. A birth certificate issued in the Channel Islands, the Isle of Man or Ireland, when produced in combination with an official document giving the person's National Insurance Number and their name issued by a Government agency or a previous employer.
11. An adoption certificate issued in the Channel Islands, the Isle of Man or Ireland, when produced in combination with an official document giving the person's National Insurance Number and their name issued by a Government agency or a previous employer.
12. A certificate of registration or naturalisation as a British citizen, when produced in combination with an official document giving the person's National Insurance Number and their name issued by a Government agency or a previous employer.
13. A letter issued by the Home Office, the Border and Immigration Agency or the UK Border Agency to

the holder which indicates that the person named in it is allowed to stay indefinitely in the United Kingdom when produced in combination with an official document giving the person's National Insurance Number and their name issued by a Government agency or a previous employer.

#### **LIST B - DOCUMENTS WHICH SHOW A RIGHT TO WORK FOR UP TO 12 MONTHS**

1. A passport or travel document endorsed to show that the holder is allowed to stay in the United Kingdom and is allowed to do the type of work in question, provided that it does not require the issue of a work permit.
2. A Biometric Residence Permit issued by the UK Border Agency to the holder which indicates that the person named in it can stay in the United Kingdom and is allowed to do the work in question.
3. A work permit or other approval to take employment issued by the Home Office, the Border and Immigration Agency or the UK Border Agency when produced in combination with either a passport or another travel document endorsed to show the holder is allowed to stay in the United Kingdom and is allowed to do the work in question, or a letter issued by the Home Office, Border and Immigration Agency or UK Border Agency to the holder or the employer or prospective employer confirming the same.
4. A Certificate of Application issued by the Home Office, the Border and Immigration Agency or the UK Border Agency to or for a family member of a national of a European Economic Area country or Switzerland stating that the holder is permitted to take employment which is less than 6 months old when produced in combination with a positive confirmation letter from our Employer Checking Service.
5. A residence card or document issued by the Home Office, the Border and Immigration Agency or the UK Border Agency to a family member of a national of a European Economic Area country or Switzerland.
6. An Application Registration Card issued by the Home Office, the Border and Immigration Agency or the UK Border Agency stating that the holder is permitted to take employment, when produced in combination with a positive confirmation letter from our Employer Checking Service. Summary guide for employers on preventing illegal working in the UK 17
7. An Immigration Status Document issued by the Home Office, the Border and Immigration Agency or the UK Border Agency to the holder with an endorsement indicating that the person named in it can stay in the United Kingdom, and is allowed to do the type of work in question, when produced in combination with an official document giving the person's National Insurance Number and their name issued by a Government agency or a previous employer.
8. A letter issued by the Home Office, Border and Immigration Agency or UK Border Agency to the holder or the employer or prospective employer, which indicates that the person named in it can stay in the United Kingdom and is allowed to do the work in question when produced in combination with an official document giving the person's National Insurance Number and their name issued by a Government agency or a previous employer.

You can find out more about these documents and view images in the 'Full guide for employers on preventing illegal working in the UK' which can be downloaded from: [www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working](http://www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working)

#### **DOCUMENTS THAT ARE NOT ACCEPTABLE FOR PROVING RIGHT TO WORK:**

The following documents are not acceptable for proving a person has the right to work in the UK and will not provide you with a statutory excuse against payment of a civil penalty:

- a Home Office Standard Acknowledgement Letter or Immigration Service Letter (IS96W) which states that an asylum seeker can work in the UK. If you are presented with these documents then you should advise the applicant to call us on 0151 237 6375 for information about how they can apply for an Application Registration Card;
- a National Insurance number on its own in any format;

- a driving licence issued by the Driver and Vehicle Licensing Agency;
- a bill issued by a financial institution or a utility company;
- a passport describing the holder as a British Dependent Territories Citizen which states that the holder has a connection with Gibraltar;
- a short (abbreviated) birth certificate issued in the UK which does not have details of at least one of the holder's parents;
- a licence provided by the Security Industry Authority;
- a document check by the DBS;
- a card or certificate issued by the Inland Revenue under the Construction Industry Scheme.

## LEGAL AND OPERATIONS TEAM

### GUIDELINES

#### L08 - EMPLOYMENT

#### ANNEX 6

### MODEL CHURCH WORKER

#### DISCIPLINARY PROCEDURE

##### 1. Purpose and scope

This procedure is designed to help and encourage all employees of the Church to achieve and maintain standards of conduct, attendance and performance in their ministry/work. The aim is to ensure consistent and fair treatment for all. This procedure applies to [all employees of the Church] and will normally be followed where a breach of discipline occurs but the procedure is not contractually binding upon the Church and is for guidance only.

##### 2. Principles

- No disciplinary action will be taken against an employee until the case has been fully investigated.
- No employee will be dismissed for a first breach of discipline except in the case of gross misconduct for which an individual may be dismissed without notice or payment in lieu of notice.
- An employee will have the right to appeal against any disciplinary penalty imposed.
- The procedure may be implemented at any stage if the employee's alleged misconduct warrants such action.

##### 3. Concurrent Procedures

In the event that an employee submits a grievance during a disciplinary procedure, the Church may at its discretion, decide whether to suspend the disciplinary procedure in order to fully consider the grievance, or to deal with both procedures concurrently, where the issues are related.

#### Establishing the facts

The Church will investigate, without delay, any allegation or indication of poor performance or misconduct. In some cases, this will require an investigatory meeting, held by a senior Church representative, to establish the true facts in the matter.

The Church may consider it necessary to suspend the employee on full pay pending investigation.

#### Suspension

The Church may at any time suspend the employee for a reasonable period of time, during any period in which the Church is carrying out a disciplinary investigation into any alleged acts or defaults of the employee. During any period of suspension, the employee shall continue to receive their salary and contractual benefit. This is not disciplinary action, but a neutral act pending the outcome of the investigation.

#### Informing the employee

If, following the investigation, either misconduct or unsatisfactory performance is confirmed and it is felt that there is a disciplinary case to answer, the employee will be asked to attend a formal meeting and the employee will be notified in writing that disciplinary action may follow. This notification will contain sufficient information about the alleged misconduct or poor performance to allow the employee to prepare a response for any disciplinary hearing. It will also include any evidence gathered during the investigation, which supports the decision to take disciplinary action.

The employee will also be informed of the time, date and venue of the disciplinary hearing, and advised of the employee's right to be accompanied by a colleague or trade union representative.

### **Disabilities**

Consideration should always be given to whether poor performance may be related to a disability and, if so, whether there are reasonable adjustments that could be made to the employee's working arrangements, including changing his/her duties or providing additional equipment or training. The Church may also consider making adjustments to this procedure in appropriate cases.

If the employee wishes to discuss this or inform the Church of any medical condition which they consider relevant, he/she should contact his/her supervisor or the Church Secretary.

### **Confidentiality**

The Church's aim is to deal with performance matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat as confidential any information communicated to them in connection with a matter, which is subject to this disciplinary procedure.

The employee and anyone who accompanies them (including witnesses) must not make electronic recordings of any meetings or hearings conducted under this procedure.

The employee will normally be told the names of any witnesses whose evidence is relevant to their disciplinary hearing, unless the Church believes that a witness's identity should remain confidential.

### **Notification of a hearing**

If the Church considers that there are grounds for taking formal action over alleged poor performance, the employee will be required to attend a capability hearing. The Church will notify the employee in writing of its concerns over the individual's performance, the reasons for those concerns, and the likely outcome if it decides after the hearing that the employee's performance has been unsatisfactory. The Church will also include the following where appropriate:

- (a) A summary of relevant information gathered as part of any investigation;
- (b) A copy of any relevant documents which will be used at the capability hearing; and
- (c) A copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case the Church will give the employee as much information as possible while maintaining confidentiality.

The Church will give the employee written notice of the date, time and place of the capability hearing. The hearing will be held as soon as reasonably practicable, but the employee will be given a reasonable amount of time, [usually two to seven days,] to prepare his/her case based on the information which the Church gives him/her.

### **Right to be accompanied at hearings**

The employee may take a companion to any capability hearing or appeal hearing under this procedure. The companion may be either a trade union official or a fellow employee. The employee must tell the manager conducting the hearing who his/her chosen companion is, in good time before the hearing.

Employees are allowed reasonable time off from duties without loss of pay to act as a companion. There is no duty on employees to act as a companion if they do not wish to do so.

- If the chosen companion will not be available at the time proposed for the hearing the employee may request that the hearing be postponed to a day not more than five working days after the day proposed by the Church. If the time proposed is reasonable, and the employee representative is able to attend, the hearing will be postponed until that time.

- Whilst the companion may address the hearing and confer with the individual during the hearing, they do not have the right to answer questions on the part of the individual.

If the employee's choice of companion is unreasonable the Church may require him/her to choose someone else, for example:

- (a) If in the Church's opinion the employees' companion may have a conflict of interest or may prejudice the hearing; or
- (b) [If the employees' companion works at another site and someone reasonably suitable is available at the site at which they work; or]
- (c) If the employees' companion is unavailable at the time a hearing is scheduled and will not be available for more than five working days.

The Church may, at its discretion, allow the employee to take a companion who is not an employee or union official (for example, a member of his/her family) where this will help overcome a particular difficulty caused by a disability, or where the employee has difficulty understanding English.

### **The procedure**

Where possible, matters will be dealt with informally, where the matter is more serious either the capability or the disciplinary procedure will be used:

## **CAPABILITY HEARINGS**

### **Procedure at capability hearings**

The aims of a capability hearing will usually include:

- setting out the required standards that we believe the employee may have failed to meet, and going through any relevant evidence that the Church has gathered;
- allowing the employee to ask questions, present evidence, call witnesses, respond to evidence and make representations;
- establishing the likely causes of poor performance including any reasons why any measures taken so far have not led to the required improvement;
- identifying whether there are further measures, such as additional training or supervision, which may improve performance;
- where appropriate, discussing targets for improvement and a time-scale for review; and
- if dismissal is a possibility, establishing whether there is any likelihood of a significant improvement being made within a reasonable time and whether there is any practical alternative to dismissal, such as redeployment.

A hearing may be adjourned if we need to gather any further information or give consideration to matters discussed at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

The Church will inform the employee in writing of its decision and its reasons for it, usually within [one week] of the capability hearing. Where possible the Church will also explain this information to the employee, in person.

#### **Stage 1: Capability Hearing [first written warning OR improvement note]**

Following a Stage 1 capability hearing, if the Church decides that the employee's performance is unsatisfactory, the employee will be given [a first written warning **OR** improvement note], setting out:

- the areas in which he/she has not met the required performance standards;
- targets for improvement;
- any measures, such as additional training or supervision, which will be taken with a view to improving performance;
- a period for review;
- the consequences of failing to improve within the review period, or of further unsatisfactory performance.

A [first written warning **OR** improvement note] may be authorised by [INSERT MANAGEMENT GRADE].

The [warning **OR** improvement note] will normally remain active for six months [from the end of the review period], after which time it will be disregarded for the purposes of the capability procedure. However, a permanent record of it will be placed on the employee's personnel file.

The employee's performance will be monitored during the review period and the Church will write to him/her to inform them of the outcome:

- if the employee's manager is satisfied with the employee's performance, no further action will be taken;
- if the manager is not satisfied, the matter may be progressed to a Stage 2 capability hearing; or
- if the manager feels that there has been a substantial but insufficient improvement, the review period may be extended.

### **Stage 2: Capability Hearing final written warning**

If the employee's performance does not improve within the review period set out in [a first written warning **OR** an improvement note], or if there is further evidence of poor performance whilst the employee's [first written warning **OR** improvement note] is still active, the Church may decide to hold a stage 2 capability hearing. The Church will send the employee written notification as set out above.

Following a Stage 2 capability hearing, if the Church decides that the employee's performance is unsatisfactory, it will give the employee a final written warning, setting out:

- the areas in which the employee has not met the required performance standards;
- targets for improvement;
- any measures, such as additional training or supervision, which will be taken with a view to improving performance;
- a period for review;
- the consequences of failing to improve within the review period, or of further unsatisfactory performance.

A final written warning may be authorised by [INSERT MANAGEMENT GRADE].

A final written warning will normally remain active for [six **OR** 12] months [from the end of the review period], after which time it will be disregarded for the purposes of the capability procedure. A record of the warning will form a permanent part of the employee's personnel record.

The employee's performance will be monitored during the review period and the Church will write the employee to inform them of the outcome:

- if the employee's manager is satisfied with his/her performance, no further action will be taken;
- if the employee's manager is not satisfied, the matter may be progressed to a Stage 3 capability hearing; or
- if the manager feels that there has been a substantial but insufficient improvement, the review period may be extended.

### **Stage 3: Capability Hearing dismissal or redeployment**

The Church may decide to hold a stage 3 capability hearing if we have reason to believe:

- the employee's performance has not improved sufficiently within the review period set out in a final written warning; or
- the employee's performance is unsatisfactory while a final written warning is still active; or
- the employee's performance has been grossly negligent such as to warrant dismissal without the need for a final written warning.

The Church will send the employee written notification of the hearing as set out above.

Following the hearing, if the Church finds that the employee's performance is unsatisfactory, the Church may consider a range of options including:

- dismissing the employee;
- redeploying the employee into another suitable job at the same or [(if your contract permits)] a lower grade; or
- extending an active final written warning and setting a further review period (in exceptional cases where the Church believes a substantial improvement is likely within the review period).
- giving a final written warning (where no final written warning is currently active).[The decision may be authorised by [INSERT MANAGEMENT GRADE].]

Dismissal will normally be with full notice or payment in lieu of notice, unless the employee's performance has been so negligent as to amount to gross misconduct, in which case the Church may dismiss the employee without notice or any pay in lieu.

#### **Appeals against action for capability.**

If the employee feel that a decision about capability under this procedure is wrong or unjust he/she should appeal in writing, stating his/her full grounds of appeal, to [INSERT APPROPRIATE PERSON] within one week of the date on which he/she was informed in writing of the decision.

If the employee is appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if the employee's appeal is successful he/she will be reinstated with no loss of continuity or pay.

If the employee raises any new matters in his/her appeal, the Church may need to carry out further investigation. If any new information comes to light the Church will provide the employee with a summary including, where appropriate, copies of additional relevant documents and witness statements. The employee will have a reasonable opportunity to consider this information before the hearing.

The employee will be given you written notice of the date, time and place of the appeal hearing. This will normally be two to seven days after they receive the written notice.

The appeal hearing may be a complete re-hearing of the matter or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. This will be at the Church's discretion depending on the circumstances of the employee's case. In any event the appeal will be dealt with as impartially as possible.

Where possible, the appeal hearing will be conducted by a manager who was not previously involved in the case **AND/OR** the manager who conducted the capability hearing] will also usually be present. The employee may take a companion with them to the appeal hearing.

A hearing may be adjourned if the Church needs to gather any further information or give consideration to matters discussed at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

Following the appeal hearing the Church may:

- confirm the original decision; or
- revoke the original decision; or
- substitute a different penalty.

The Church will inform the employee in writing of its final decision as soon as possible, usually within one week of the appeal hearing. Where possible this will also be explained to the employee in person. There will be no further right of appeal.

## **DISCIPLINARY HEARINGS**

### **Procedure at disciplinary hearings**

At the meeting the following procedure will be followed:

#### **Statement of complaint**

The Church will set out what the complaint against the employee is and go through the evidence gathered during the course of the investigation.

#### **The employee's reply**

The employee will be given the opportunity to state their case and respond to any allegations made. The employee will be allowed to ask questions and confer with their companion. If the employee accepts that they have done something wrong, steps may be agreed to remedy the situation.

#### **General questioning and discussion**

The person responsible for conducting the meeting may ask the employee for an explanation and query whether there are any special circumstances which should be taken into account. If the employee provides sufficient explanation, the proceedings will be brought to a close. If new facts occur at this stage, it may be appropriate for the Church to adjourn the meeting and investigate the matter further before calling the employee back to an adjourned meeting.

#### **Summing up**

At this stage the person responsible for holding the disciplinary meeting may summarise the main points of discussion. The employee will be given the opportunity to add anything further.

#### **Adjournment before decision**

The meeting will be adjourned before a decision is made about the appropriate action. Following the meeting, a decision will be made as to whether or not disciplinary action is justified. Once a decision is made, the employee will be informed in writing.

Before deciding what, if any, disciplinary action is appropriate, consideration will be given to:

- whether the organisation's rules indicate clearly the likely penalty, as a result of the particular misconduct;
- whether standards of other employees are acceptable, and whether the employee in question is not being singled out;
- the employee's disciplinary record (including current warnings), general work record, work experience, position and length of service;
- the reasonableness of the proposed penalty in the circumstances; and
- whether training, additional support or adjustments to the work are necessary to accompany any disciplinary action.

The employee will be given details of any disciplinary action as soon as a decision is made.

## **Imposing the disciplinary penalty First formal action – unsatisfactory performance**

In such cases, the employee will be given an "IMPROVEMENT NOTE" setting out:

- the performance problem;
- the improvement that is required;
- the timescale for achieving that improvement;
- a review date; and
- any support, including any training that the Church will provide to assist the employee.

The employee will be informed that the note represents the first stage of a formal procedure and is equivalent to a first "written warning". The employee will also be informed that failure to improve could lead to a final written warning and dismissal.

A copy of the note will be kept and used as the basis for monitoring and reviewing performance over a specified period.

If the employee's unsatisfactory performance, or continued unsatisfactory performance, is sufficiently serious (e.g. where it is having / likely to have a serious harmful effect of the organisation) the employee may be issued directly with a final written warning.

### **First formal action – misconduct**

In cases of misconduct, depending on the seriousness of the misconduct, the employee may be given a FIRST WRITTEN WARNING setting out the nature of the misconduct and the change in behaviour required.

The warning will also inform the employee that a final written warning may be considered if there is further misconduct. A record of the warning will be kept by the Church but it will be disregarded for disciplinary purposes after 12 months.

### **Final written warning**

Following the issue of a written warning, if there is still a failure to improve and conduct or performance remains unsatisfactory, or if the misconduct is sufficiently serious to warrant only one written warning, a FINAL WRITTEN WARNING will be given to the employee. This will give details of the complaint will warn that dismissal will result if there is no satisfactory improvement, or if further misconduct occurs. The final written warning will advise the individual of the right of appeal. A copy of this final written warning will be kept by the Church but it will be disregarded for disciplinary purposes after 12 months (in exceptional cases the period may be longer) subject to satisfactory conduct and performance.

### **Dismissal**

If conduct or performance is still unsatisfactory and the employee still fails to reach the prescribed standards, DISMISSAL will normally result. The employee will be provided as soon as reasonably practicable with written reasons for dismissal, the date on which employment will terminate and advised of their right of appeal within a specified time.

### **Gross misconduct**

The following list is not exhaustive but provides examples of offences which are normally regarded as gross misconduct:

- verbal, physical, sexual or financial abuse of members of the Church,
- theft, fraud, deliberate falsification of records,

- serious breach of confidentiality,
- fighting, assault on another person or bullying,
- deliberate damage to the Church's property,
- serious incapability at work through alcohol or being under the influence of illegal drugs,
- serious negligence which causes unacceptable loss, damage or injury,
- serious act of insubordination,
- serious misuse of the Church's property,
- bringing the Church into serious disrepute,
- a serious breach of health and safety rules,
- a serious breach of confidence,
- failure to adhere to the BUGB Declaration of Principle or the Five Core Values required of all members of the Church (if applicable),
- deliberately accessing internet sites containing offensive or obscene material,
- unlawful discrimination or harassment,
- failure to maintain one's personal life in accordance with a good Christian testimony (if applicable);
- breach of the Code of Conduct.

If the employee is accused of an act of gross misconduct, the employee may be suspended from work on full pay, while the Church investigates the alleged offence and pending the outcome of any disciplinary hearing. If, on completion of the investigation and a subsequent disciplinary hearing, the Church is satisfied that gross misconduct has occurred, the result will normally be summary dismissal without notice or payment in lieu of notice.

### **Appeals**

An employee who wishes to appeal against a disciplinary decision should put their decision to appeal and the grounds of their appeal in writing to the Church Secretary within [five] working days of the date they were first notified of the decision. The employee has the statutory right to be accompanied by a colleague or a trade union representative to an appeal meeting.

The appeal shall, where possible, be heard by the deacons whose decision shall be final, subject to any overriding decision of the Church Meeting.

You will be informed in writing of the outcome of the appeal hearing as soon as possible. This will usually be within 10 working days.

## LEGAL AND OPERATIONS TEAM

### GUIDELINES

#### L08 - EMPLOYMENT

#### ANNEX 7

### MODEL CHURCH WORKER

#### GRIEVANCE PROCEDURE

##### 1. Purpose and scope

The Church realises the importance of good working relationships. It therefore tries to establish an atmosphere in which problems can be discussed and resolved and its aim is to encourage open communication. The Church also believes that it is in everyone's best interest to ensure that employees' grievances are dealt with quickly and fairly and that a grievance procedure enables individuals to raise issues with management that affect them in the workplace.

##### 2. Policy

The Church will try to resolve, as quickly as possible, any grievance which an employee may have about his or her work or about actions of the Church, the Church's members or the employee's colleagues. The procedure is non-contractual but applies to all employees who should familiarise themselves with its provisions.

##### 3. Concurrent Procedures

In the event that an employee submits a grievance during a disciplinary procedure, the Church may at its discretion, decide whether to suspend the disciplinary procedure in order to fully consider the grievance, or to deal with both procedures concurrently, where the issues are related.

##### 4. Mediation

In appropriate circumstances, the Church may suggest mediation as a means of addressing a grievance. Mediation may take the form of a neutral mediator, assisting parties to reach an amicable outcome to a grievance. Mediation will usually take the form of an open session between all affected parties and the mediator at which each party will state its case, followed by a series of meetings between each party and the mediator.

##### 5. Procedure

The employee should firstly raise any grievance informally with the person to whom he or she immediately reports, who in most cases, will be best placed to respond to his or her complaint. If the employee's grievance concerns their supervisor, they should instead raise their grievance with the Church Secretary.

##### **Step 1**

If, however, the matter cannot be satisfactorily resolved informally, the employee should raise the matter formally, in writing, giving full details of the nature of his or her grievance, with his or her supervisor (or the Church Secretary if his/her grievance is against his/her supervisor). Where an employee has difficulty expressing themselves because of language or other difficulties, they may seek help from their manager or the Church Secretary.

When stating their grievance, an employee should focus on preparing a factual account of their grievance.

## **Step 2 Meeting**

The [supervisor] will invite the employee to a hearing in order to discuss the grievance as soon as reasonably practicable. The [supervisor] will ensure that the meeting will be held in private and the employee should make every effort to attend. The employee has the right to be accompanied by either a colleague or a trade union representative.

### **Right to be accompanied at hearings**

You may bring a companion to any capability hearing or appeal hearing under this procedure. The companion may be either a trade union official or a fellow employee. You must tell the manager conducting the hearing who your chosen companion is, in good time before the hearing.

Employees are allowed reasonable time off from duties without loss of pay to act as a companion. There is no duty on employees to act as a companion if they do not wish to do so.

- If the chosen companion will not be available at the time proposed for the hearing the employee may request that the hearing be postponed to a day not more than five working days after the day proposed by the Church. If the time proposed is reasonable, and the employee representative is able to attend, the hearing will be postponed until that time.
- Whilst the companion may address the hearing and confer with the individual during the hearing, they do not have the right to answer questions on the part of the individual.

If your choice of companion is unreasonable we may require you to choose someone else, for example:

- (a) If in our opinion your companion may have a conflict of interest or may prejudice the hearing;  
or
- (b) [If your companion works at another site and someone reasonably suitable is available at the site at which you work; or]
- (c) If your companion is unavailable at the time a hearing is scheduled and will not be available for more than five working days.

We may, at our discretion, allow you to bring a companion who is not an employee or union official (for example, a member of your family) where this will help overcome a particular difficulty caused by a disability, or where you have difficulty understanding English.

At the meeting the [supervisor] will invite the employee to detail their grounds of grievance and consult with them on how it may be resolved.

We may adjourn the meeting if we need to carry out further investigations, after which the meeting will usually be reconvened.

The [supervisor] will adjourn the meeting before any decision is taken about how to deal with an employee's grievance. The [supervisor] will tell the employee when they can reasonably expect a response, if one cannot be made at the time. Usually, the [supervisor] will confirm any decision or proposed action to the employee in writing within 10 working days of the hearing. If it is not possible to respond within the specified time period the employee will be given an explanation for the delay and told when a response can be expected. The [supervisor] will set out clearly in writing any action that is to be taken and the employee's right of appeal. Where an employee's grievance is not upheld, the [supervisor] will explain the reasons.

## **Step 3**

If the employee is dissatisfied with the outcome of the first meeting, the employee should appeal in writing to the Church Secretary stating his/her full grounds of appeal, within one week of the date on which the decision was sent or given to him/her. The Church Secretary will arrange a further meeting with deacons who have not previously been involved in the case.

The employee has the right to be accompanied by either a colleague or a trade union representative.

Following the hearing, the employee will be informed of the decision or proposed action. This decision will be final subject to any overriding decision by the Church Meeting. If it is not possible to respond within the specified time period the employee should be given an explanation and told when a response can be expected. There is no further right of appeal.

## **LEGAL AND OPERATIONS TEAM**

### **GUIDELINES**

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#### **ANNEX 8**

### **RETIREMENT POLICY- NO FIXED RETIREMENT AGE**

#### **Retirement Age**

We currently do not have a fixed retirement age although this will be reviewed from time to time with a view to introducing a fixed retirement age if this would reflect the needs of the Church and providing that such a change would be objectively justified.

You are therefore free to retire when you wish to do so and will not pressurise you into retiring because you have reached, or are approaching, a certain age.

#### **Discussing your future plans**

You may wish to discuss your short, medium and long-term plans as the need arises. We may also want to initiate these discussions with you in order to plan for the needs of the Church. For example, if your circumstances change, you may want a different working pattern or to stop work altogether. There is no obligation for us to hold workplace discussions about your future plans but it may be mutually beneficial to do so in order to ensure that we can plan for the future of the Church.

If a workplace discussion does take place, we will aim to make it as informal as possible. We will not assume that you want to retire just because you are approaching a certain age and we will not make discriminatory comments, suggesting that you should move on due to age.

We will not make generalised assumptions that performance will decline with age, whether due to competence or health issues. If we think there are problems with your performance or ill-health, these will be dealt with in the usual way, through our Capability Procedure or Sickness Absence procedure.

#### **Giving notice of retirement**

If you have decided to retire, we would appreciate as much notice as possible, although you should give at least the notice you are obliged to give under your contract of employment.

## LEGAL AND OPERATIONS TEAM

### GUIDELINES

#### L08 - EMPLOYMENT

#### ANNEX 9

### RETIREMENT POLICY- FIXED RETIREMENT AGE

#### **BEFORE USING THIS POLICY YOU SHOULD TAKE FORMAL ADVICE FROM A SOLICITOR AS THE PROCESS OF JUSTIFYING A FIXED RETIREMENT AGE IS COMPLEX**

#### **Retirement Age**

We have decided to have a fixed retirement age of [AGE] for [certain roles within the Church] OR [all employees] for the reasons set out below.

[Describe the roles that the fixed retirement age will apply to]

You are of course free to retire before the fixed retirement age. We also recognise that you may wish to consider changing your working patterns as you approach retirement.

#### **Reasons for fixed retirement age**

We have a fixed retirement age of [AGE] for [the following roles] OR [all employees].

We consider that there are the following legitimate reasons for having this fixed retirement age:

[set out legitimate aims being pursued by the Church by adopting a fixed retirement age].

We will review whether this fixed retirement age remains necessary from time to time and will let you know if we consider that changes are required.

#### **The procedure for retirement**

We would like to meet with you well in advance of your retirement date to discuss any relevant issues, such as whether a handover period is necessary or how your skills could be passed onto others within the Church.

This meeting should take place between six and twelve months before your retirement date but in some cases may be shorter. You should also feel free to initiate a workplace discussion about your future plans with regard to retirement. You may want to retire earlier than the fixed retirement date or work flexibly or in an alternative role in the period leading up to retirement. We would like to know your plans and discuss them with you.

If you would like to work beyond retirement, you should raise this with us and we will consider your request, taking into account all surrounding circumstances, including the reasons behind having a fixed retirement age.

#### **Giving notice of retirement**

Your contract of employment sets out the notice period that we are obliged to give you.

## **LEGAL AND OPERATIONS TEAM**

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#### **ANNEX 10**

### **SAMPLE POLICY STATEMENT ON THE RECRUITMENT OF EX OFFENDERS**

As an organisation using the DBS Disclosure service to assess applicants' suitability for positions of trust, this church undertakes to treat all applicants for positions fairly. It undertakes not to discriminate unfairly against any subject of a disclosure on the basis of conviction or other information received.

We welcome people to serve the church on the basis of the right mix of talent, skills, character, potential and call of God, including those with criminal records.

Only where a post for which you are applying requires an enhanced or standard DBS check will you be required to provide one as part of the application process.

A criminal record will not necessarily be a bar to a person serving with children and young people or vulnerable adults. This will depend on the nature of the position and the circumstances and background of the offences.

In order to protect the confidentiality of those with criminal records we will access disclosures through Due Diligence Checking Ltd, who are the Baptist Union's appointed external service provider. We invite the Baptist Union's National Safeguarding Officer to advise us in the appointment process when necessary, and we agree to act on their advice for the protection of children, young people and adults at risk.

## LEGAL AND OPERATIONS TEAM

### GUIDELINES

#### L08 - EMPLOYMENT

#### ANNEX 11

### EXAMPLE MODEL CHURCH WORKER CODE OF CONDUCT\*

#### Background

This Code of Conduct sets out standards of behaviour expected by the Employer of all employees who are required to agree to the BUGB Declaration of Principle and Five Core Values. Your conduct both in and out of work should be consistent with our objectives and the principles set out in those documents. You are encouraged to make every effort to meet the standards of personal conduct and working practice set out in this code of conduct.

[It is understood that while every member of staff is vulnerable to behaviour which contravenes that laid out in Scripture, our desire as an organisation is to inspire, encourage and build one another up in the faith in order to honour, obey and glorify God in our work.

This code of conduct seeks to facilitate this aim.]

#### Behavioural Standards

As a result of your desire to work for us and your acceptance of our Declaration of Principle and Five Core Values, we would expect certain behavioural standards, examples of which are:

- a willingness to give an account of your faith within an appropriate context in light of your particular responsibilities;
- regular commitment and participation in the life of [the Church][a local Church]; and
- treatment of those you deal with, with grace, respect, courtesy, politeness, forgiveness and Christian love.

#### Code of Conduct

A non-exhaustive list of matters which are considered to be gross misconduct is set out in the disciplinary procedure.

There may be instances where inappropriate conduct inside or outside of formal working hours may also necessitate disciplinary action.

Such issues may be as the result of an incapacity or an error of judgement rather than lifestyle choice or pre-determined behavioural choice.

The following is a non-exhaustive list of conduct which, although it may occur outside of formal working hours we consider to be inappropriate for our employees and may lead to disciplinary action or dismissal:

- where it relates to a serious criminal offence;
- where it renders the employee unsuitable for the type of work they do e.g. someone who works with children found guilty of child abuse;
- where it leads to a breach of mutual trust between employer and employee e.g. accountant found guilty of fraud;
- where it is damaging to the reputation of the organisation for example:
  - Drunkenness or the use of illegal drugs
  - Use of obscenities, coarse jokes, gossip and slander

- Any form of dishonesty including stealing and lying
- Sexual immorality including adultery, sex outside of heterosexual marriage, deliberate viewing of pornography
- Involvement in the occult or witchcraft
- where it affects the performance of the employee in their particular role e.g. a driver who loses his/her licence where driving is an essential occupational requirement; or
- where it relates to an employee's acceptance of our Declaration of Principle and Five Core Values e.g membership of a group who could oppose the principles set out in those documents or expressing views which are contrary to them.

### **Our Approach to Misconduct**

Employees will be treated within a context of grace and compassion while time is taken to consider the circumstances of the situation e.g.

- The severity of the perceived misconduct.
- Whether the incident is a 'one-off ' or part of repeated behaviour or lifestyle.
- Whether the behaviour breaches our safeguarding policies and procedures
- Any mitigating circumstances e.g. personal issues.
- The position of trust of the employee.
- The particular duties of the employee.
- Christian maturity and understanding.
- The treatment of similar instances of misconduct by other employees.
- The employee's length of service.
- The extent of any 'live' disciplinary warnings.
- Evidence of repentance.

Association Trust Company	Contact
<b>Baptist Union Corporation Ltd</b> <b>East Midland Baptist Trust Company Ltd</b>	Baptist Union Corporation Ltd Baptist House PO Box 44 129 Broadway Didcot Oxfordshire OX11 8RT Telephone: 01235 517700
<b>Heart of England Baptist Association</b>	Heart of England Baptist Association BMS Birmingham 24 Weoley Park Road Selly Oak Birmingham B29 6QX Telephone: 0121 472 4986
<b>London Baptist Property Board</b>	London Baptist Association Unit C2 15 Dock Street London E1 8JN Telephone: 020 7692 5592
<b>Yorkshire Baptist Association</b>	17-19 York Place Leeds LS1 2EZ Telephone: 0113 278 4954
<b>West of England Baptist Trust Company Ltd</b>	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 and Yorkshire Baptist Association (Incorporated). All queries relating to property held on trust by the YBA should, in the first instance, be addressed to the YBA Trust Officer, Ann Chesworth.

**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:**

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