

**guide to model  
governing documents  
for independent,  
"leader led" churches**

May 2006

**stewardship<sup>®</sup>**

PO Box 99, Loughton, Essex, IG10 3QJ

t: 08452 26 26 27

e: [enquiries@stewardship.org.uk](mailto:enquiries@stewardship.org.uk)

w: [www.stewardship.org.uk](http://www.stewardship.org.uk)

This Briefing Paper, and others like it, are provided free of charge and help a great many churches and charities. Their development involves many hours of dedicated professional expertise both from within and outside of Stewardship. They are provided at our own cost as part of our mission to equip you.

If you find the material in this Briefing Paper to be of value, we would invite you to respond in the following ways:

- Subscribe to receive our email bulletins (You can do this via our website, [www.stewardship.org.uk](http://www.stewardship.org.uk));
- tell others in your church or charity about our resources; and
- Consider making a financial gift to Stewardship in appreciation of this material.

You are under no obligation to make a gift but any gift that you can make will be greatly appreciated.

## CONTACT DETAILS

Stewardship  
PO Box 99, Loughton, Essex IG10 3QJ  
t 08452 26 26 27  
f 020 8502 5333  
e [enquiries@stewardship.org.uk](mailto:enquiries@stewardship.org.uk)  
w [www.stewardship.org.uk](http://www.stewardship.org.uk)

Stewardship is the operating name of Stewardship Services (UKET) Limited, a registered charity no. 234714, and a company limited by guarantee no. 90305, registered in England  
© Copyright Stewardship 2006

## COPYRIGHT

This publication is the copyright of Stewardship. If it is to be reproduced in whole or part it must not be for commercial gain and should clearly acknowledge Stewardship with the following wording: "Reproduced with permission from Stewardship. [www.stewardship.org.uk](http://www.stewardship.org.uk)". If extracts are to be used in another context, permission should be sought in advance by emailing [enquiries@stewardship.org.uk](mailto:enquiries@stewardship.org.uk) or telephoning 0208 502 5600.

## DISCLAIMER

Whilst every care has been taken in the preparation of this material, Stewardship cannot be responsible for action taken or refrained from in reliance thereon. It is recommended that appropriate professional advice be sought in each relevant individual circumstance.

# table of contents

---

	Page
1 Introduction	2
2 The new model documents	2
3 Features of the model deed:	3
4 Some Questions & Answers	3
5 How else can Stewardship help?	5

# 1 Introduction

These notes are issued by Stewardship on the launch (in May 2006) of new model governing documents for independent churches. They summarise what has been provided, and why, and give pointers to further help and information.

The new documents have been produced by a working party featuring Charity Commission staff, lawyers from Anthony Collins Solicitors and Stewardship, and representatives of ACEA and Evangelical Alliance. They have been prompted particularly by the needs of and concerns within the Black Majority Churches community: here the challenge of combining standard legal governance with spiritual leadership principles has been especially strong.

The documents are offered as a help. They are an additional resource. They are not to be seen as the only acceptable structures – and the Charity Commission have agreed that they will not insist upon their use. What they do offer is a structure that should meet the needs of most “leader led” churches, in a current, relevant format, and that is accepted and approved by the Charity Commission. This should lead to a quicker charity registration process for churches using these documents.

They will not suit all churches, for instance, those based on a congregational form of church government. Churches within established denominations will usually have their own forms of structure and governing documents.

## 2 The new model documents

At the launch, in May 2006, one initial legal form is being provided. This is a Trust Deed (or Declaration of Trust). This would be the most commonly used form of governing document for churches. It comes with a set of guidance notes. These help the people setting up the charity to understand what it all means, and how to complete sections where there are alternative provisions.

This document and the guidance notes can be downloaded from the following web page: [www.eauk.org/modeltrustdeed](http://www.eauk.org/modeltrustdeed)

Two other versions will be added in the near future. These are:

(1) Company memorandum and articles. It is becoming more common for churches to be formed as charitable companies. The company structure offers benefits in terms of protection against liabilities of trustees, and the ownership and transfer of land or other property beyond those of the Trust. For more on the pros and cons of Trusts v Companies, please refer to the separate briefing paper on the Stewardship website at [www.stewardship.org.uk/briefing\\_papers.htm](http://www.stewardship.org.uk/briefing_papers.htm) (under legal & property). Mention is also made in this of the Charitable Incorporated Organisation, which is a new structure, specifically designed for charities (something of a cross between a Trust and a Company) to be introduced with the proposed new Charities Act.

(2) Constitution (unincorporated association). This is not to be confused with a church constitution that deals with beliefs and practices, church officers and governance, etc. This is a legal structure for a charity that is used usually for smaller, local bodies, that have a wide, but not necessarily active, membership, and an elected management committee (the trustees) who usually serve for a year at a time. We do not recommend this as a good structure for all but the smallest churches.

### 3 Features of the model deed:

- Objects (purposes) that cover advancing the Christian faith, relieving sickness and financial need, including general counselling, and advancing education. These objects should be more than wide enough for the needs of most churches.
- Recognition of spiritual leadership distinct from the trustees, and appointment of trustees to be by such spiritual leadership.
- Provision to include paid church leaders among the trustees, provide they are not in a majority.
- Amendment and dissolution (winding up) requires the agreement of the spiritual leadership.

Otherwise the deed contains all the usual powers that would be expected in a modern charity trust deed.

### 4 Some Questions & Answers

#### **Q – Where can I get them from?**

A – You will find them at: [www.eauk.org/modeltrustdeed](http://www.eauk.org/modeltrustdeed). There is also a link from Stewardship's website at [www.stewardship.org.uk/links.htm](http://www.stewardship.org.uk/links.htm).

#### **Q – Can we use the new models but make changes?**

A - Yes, but take great care. The more changes you make, the greater the likelihood it will create problems with the Commission. If you do make changes, highlight them and send a copy with the changes clearly marked to the Commission.

#### **Q – Is there a fee to use the new documents?**

A – There is no fee – they are freely available. Should you instruct a lawyer or some other service provider to form and register your charity, they may, of course, use the documents and will charge fees for their overall service.

Particular recognition and thanks needs to go to Anthony Collins Solicitors, who, through Phil Watts, have done the lion's share of the drafting, with input from Stewardship and others.

#### **Q – How important is it to get good legal advice?**

A – It can often, usually even, make a real difference. The model documents with the guidance notes have been designed to be as user-friendly as possible. The danger of problems is also reduced the fewer the number of changes made. However, a good legal advisor with the necessary specialist knowledge can avoid potential pitfalls and smooth and speed the process. Poor, non-specialist advisors can have the opposite effect, so choose carefully.

#### **Q – Does an independent church have to use the new models? Will they be treated better by the Charity Commission?**

A – No – these documents are not compulsory. Use of them may lead to quicker processing because the Commission have already approved the content.

**Q – Do you have to be a new church to use the new documents? Can an existing church with an existing governing document convert to one of the new documents?**

A – It is relatively easy for a new church which can simply use the new model trust deed from the outset. Churches which have an existing legal structure/charity may well be able to convert. They have to consider a number of things:

- Is there a power within the existing governing document to amend it? If there is, you have to follow its provisions. It may, for example, prevent some of the key provisions being amended (eg the charitable objects (purposes), or a winding up provision). It may require consent from the Charity Commission or a denominational HQ for some changes. It will all depend on your own situation.
- If there is no power to amend, special permission from the Charity Commission (a Scheme) would be needed. This can be quite a long and complicated process and you need to consider how much you want or need the new structure.
- If you have the necessary power to amend, or can get the consents needed, you can approach and obtain from the Charity Commission agreement to use the new document. This should be freely given as the new documents are agreed models. The relevant department is Charity Support rather than Registrations.
- Suitable legal advice and help is usually required. For more on this, see “how else can Stewardship help?” at the end of this paper.

**Q – What is involved in converting from an existing charity structure?**

A – First, see the above answer. As to the broader process, there may be a number of aspects:

- A decision has to be made by the trustees of the existing charity first.
- It may be possible to amend the existing charity (as discussed above), in which case it will retain the existing charity registration number.

If a new charity is required:

- The new charity has to be set up. If the old one is to be wound up, the name can probably be carried over to the new (though names can be problematical). The structure is chosen and the legal work carried out. Note there will be a new charity registration and registered number.
- The assets and liabilities of the existing charity then have to be transferred to the new one. This will almost certainly require legal advice and help and a Transfer Agreement is normally used. Identifying all the assets and liabilities and doing the practical things, like getting consents where required (eg maintenance contracts) to transfer them, can be a major exercise.
- Wind up the old charity. There are some fairly simple procedures for this when the assets are below £5,000. But be aware that there may be reasons to keep an existing charity going, eg there may be a property that cannot easily be transferred to the new charity or the existing charity may be named as a beneficiary of future legacies. Knowledgeable legal advice can be very valuable.

**Q – Where can I get good advice and help with these things?**

A – See next section for what Stewardship offers. In terms of advisors we know well and can recommend:

- We work closely with Lawson Lewis Solicitors of Eastbourne, and in particular Ian and Margaret Gardner, Christian solicitors specialising in Charity Law. They can be contacted on 01323 502963 or email [margaret.gardner@lawsonlewishp.co.uk](mailto:margaret.gardner@lawsonlewishp.co.uk).
- Anthony Collins Solicitors is a substantial, Christian led legal practice based in Birmingham, with a large and knowledgeable Charity Law team. Contact Phil Watts on 0121 212 7450 or email [phil.watts@anthonycollins.com](mailto:phil.watts@anthonycollins.com).

Different denominations will usually have their own specialist firms of solicitors they can point member churches to.

## 5 How else can Stewardship help?

First, Stewardship offers a charity formation service which can include use of the new documents, or other documents developed specially for church and Christian charity clients by us and our external solicitors.

Details are available from [www.stewardship.org.uk/charity\\_formation](http://www.stewardship.org.uk/charity_formation).

Stewardship also offers a 'conversion package' designed for churches that want to move to the new model.

This has two elements:

1. Initial assessment: "Is it practical for the church to adopt the new model – with or without some desired amendments; or, do we need to establish a new charity?"
2. Conversion: The initial decision having been made, the preparation of the documents, liaison with the Charity Commission and any associated legal work (eg transfer of assets and liabilities) will be then undertaken for the church.

For more information, including costs, and for an application form, go to [www.stewardship.org.uk/charity\\_formation](http://www.stewardship.org.uk/charity_formation)

Stewardship can also provide a 'helpline' service for churches. For a low fixed cost per year you can pose questions to Stewardship's consultants. This covers legal, financial and property related issues.

Details can be found at [www.stewardship.org.uk/consultancy\\_helpline.htm](http://www.stewardship.org.uk/consultancy_helpline.htm).

Details of all our services, including insurance, payroll, accounts examination, Gift Aid administration, and employment contract pack can be found at [www.stewardship.org.uk](http://www.stewardship.org.uk).