

Blue Pages - Extra

Registration with the Charity Commission – Timetable and Process

Special Issue September 2008

BLUE PAGES EXTRA

The information in this special issue of Blue Pages is important for every church, but it will not affect them all in the same way. We would request that all churches consider carefully which details apply to them, and what they need to do.

Registration with the Charity Commission – Timetable and Process

All churches will be aware that under the changes in the law brought about by the Charities Act 2006, the special status afforded to FIEC-affiliated churches - avoiding the need for them to register with the Charity Commission - is being withdrawn. The introduction of compulsory registration is being introduced on a phased basis and we are now able to set out the detailed proposals for the first group of churches required to register – those whose gross income from all sources exceeds £100,000 a year. Those whose income is less than £100,000 will have to wait a few years before they are affected by compulsory registration.

However, this note contains information relevant to all churches - not just those with income in excess of £100,000 a year - so all churches are asked to read it in full.

1 Churches with income over £100,000 a year

Applications for registration can be submitted to the Charity Commission **on or after 2 January 2009**. In order to avoid undue pressure on the Commission, the FIEC has agreed that churches with names beginning A-K will submit their applications between January and March 2009 and those in the L-Z group between April and June 2009. Do not send them in earlier unless you have agreed to do so under special arrangements made through the FIEC office.

To submit an application you will need to use the Charity Commission web site to access the “On Line Application Registration” (OLAR) software (www.charity-commission.gov.uk). This gives you access to the Application for Registration form which you must complete and submit on-line.

Once this has been submitted, the Commission will send an e-mail which will confirm the receipt of the Application and include a Trustee Declaration Form with the application number assigned to the application. This number is not the registration number you will eventually receive.

The Trustee Declaration Form must be completed and signed by the trustees and sent by post, together with a copy of the church trust deed or constitution and a letter quoting the OLAR application number, to the Charity Commission at Charity Commission Direct, PO Box 1227, LIVERPOOL L69 3UG.

One of the questions on the On Line Application Form relates to eligibility for registration. The question, to be answered either by “Yes” or “No,” asks if you are “not excepted and income over £100,000.” Although you are currently an excepted church and would want to answer that piece of the question with a “No,” your income is over £100,000 and you would wish to answer that part with a “Yes”. However, only one answer can be given and this should be “Yes.” The Commission is aware of this problem and accepts that the correct answer from you should be “Yes” - even though you are an excepted church.

Where a church has several trusts, you may wonder exactly which governing documents need to be sent to the Commission. Rather than our trying to explain this in this article, we suggest that you contact FIEC Ltd as soon as possible to check which document(s) is/are required. If you send the wrong one(s) it is possible that your application could be rejected.

If your church's income is over £100,000 because you have had special offerings, say in connection with a building project, and normally your total income is less than £100,000, you should not register. Instead, you should write to the Commission explaining the situation, enclosing with the letter a copy of the previous year's accounts showing that your normal income is less than £100,000. The Commission will be able to exercise its powers to confirm that you do not need to register.

If, once a church has registered, its income falls below £100,000, it will be able to de-register. However, we do not believe that there is much merit in doing this as it would have to reapply when it went back up over that figure.

2 Churches with less than £100,000 income a year

Churches in this category will have to wait for further announcements as to when they will be required to register. The date is not yet available. However, this should not stop you ensuring that your trust documentation is in order. As we have advised in previous communications, **most churches will find that their present trust deed is not adequate and that this will need to be resolved.** If you have not yet done so, or are not sure about your situation, you can contact FIEC Ltd for help with this.

The fact that you do not have to register at present does not mean that you do not have to have a valid trust deed compatible with current legal requirements.

3 Names of Churches

Whether or not you are registering now, if your church name is likely to be used by other churches in the UK then it is likely that you will have to alter it for registration, probably by adding a geographical identifier to it. For instance, quite a lot of churches have the name "Bethesda" or "Grace" (to name but two examples), but only one such name can be registered, so you may have to alter it to "Bethesda Baptist Church, Felixstowe" or "Grace Baptist Church, Hitchin". If you attempt to register a name that is the same as that of a church which is already registered, the Commission will ask you to alter the name when you apply.

4 Other issues which may affect your application

1 *Already registered?* If you have already registered with the Commission, there are still issues which may arise. It is possible that the trust deed sent for evidence to register in the first place was solely for your church property and if this is so then further action will be needed. Contact the FIEC Ltd office for advice.

2 *Can't find the trust deed?* Contact FIEC Ltd for advice.

3 *What trustees' names do you put on the Application Form and Trustees Declaration Form where FIEC Ltd is your trustee?* The names of the local church officers.

4 *What trustees' names do you put on the Application Form and Trustees Declaration Form in a situation where you don't have a trust deed?* Contact FIEC Ltd for advice.

5 *Will we be issued with a charity registration number?* Once you have registered, you will be given a Charity Registration Number. This is different from the number given when you submitted your Application Form and from any number you may have been given by HMRC (Inland Revenue) in connection with Gift Aid (a number beginning with "X"). Remember that when you are allocated a Registered Charity number, you will have to include it on letter headings, cheques etc., and any notes or circulars you may issue seeking funds.

6 *More than one trust?* If the church has more than one trust, only the main church trust will be registered. Contact FIEC Ltd for further advice.

5 Further important related points to note

[5.1] In some places on the Charity Commission’s web site, and in other references, the impression is given that 1 October 2008 is the deadline by which applications for registration have to be submitted. The information we are now giving supersedes that, and should be followed, ignoring even the most categoric of statements that indicate 1 October as the crucial date.

[5.2] On the Charity Commission web site, the model constitution published by FIEC Limited is not included among the list of approved documents. For reasons connected with the Commission’s office procedures, our model will not appear on the approved list until 1 October, but the fact that it has been approved is not in question. It can therefore be relied upon as a document which the Commission’s staff will not query (unless it has been altered beyond the accepted limits) when processing applications.

[5.3] Churches which already have the FIEC Limited model constitution will need to make sure that they have the current version (11), which is dated 1 April 2007, but was issued from July 2007. Any churches who received their model earlier than July 2007 will need to contact the office to make sure that they have the latest version. Churches will not be charged for up-dating their version.

[5.4] Under the Charities Act 2006, a new type of charity has been created called a Charitable Incorporated Organisation. FIEC Limited does not recommend that churches seek this status. However, the starting date for CIOs has been postponed to beyond the period for registration as charities, which means that churches now required to register will need to register initially as unincorporated associations – the status which is typical of, and appropriate to, the vast majority of independent evangelical churches.

[5.5] Occasionally it comes to our notice that churches have adopted governing documents which they have “borrowed” from other churches. This is a risky step to take and we strongly advise against it. We would request that churches which have been issued with the FIEC Limited model do not pass it on to other churches. This is not just a question of copyright, but the legal, historical or documentary background of the “borrowing” church may contain particular circumstances which make it legally impossible simply to abandon existing documents in favour of the FIEC Limited model. Rather than passing on documents, the ideal advice to give to other churches needing help on governance issues is that they should contact FIEC Limited, who will be pleased to advise them on the solution best suited to their individual circumstances.

The information and advice provided in *Blue Pages* is compiled with considerable care as to its accuracy, but the FIEC can accept no responsibility for the consequences of any action taken in the light of the material contained in *Blue Pages*.

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