

Following a number of questions both from LBA churches and from the floor at the Governance Conference, we have consulted with professional advisers for the London Baptist Property Board and BUGB Legal and Operations Support Team.

So far as BU Legal and Operations team are aware, there has never been an occasion where a “typical hire” of church premises has escalated into full possession, although LBPB has some experience of a couple of instances where churches have got into difficulty. By and large, where a church agrees with a hirer that church members will not enter the premises while the hirer is on site, (unless by prior agreement), then it should be deemed by the courts to be a “contractual obligation” rather than a proprietary grant of the premises – in other words, in isolation the provision for “exclusive use” of the premises it is not enough to acquire rights to occupy the property. Only in exceptional circumstances would that be sufficient grounds to achieve possession because other considerations also need to be taken into account.

The following are a set of “tests” which are suggested for Church Trustees to consider when assessing whether they are exposed to greater risks.

Risks to a church are greater where:

- There is no documented agreement, or the church has drawn up its own terms which omit certain key protective clauses. The BU template Hire Agreement within Guidance Note [PC 10 Hiring of Church Premises](#) contains clauses that protect the church, stating for example that there is no right to exclude the church, and the church is able to take possession at any time. It is also helpful if agreements are for a maximum term of one year and are then subject to review and renewal.
- The hirer leaves equipment in a dedicated space within the church building. Anything, such as a cupboard or area in a room larger than a filing cabinet would be a potentially higher risk, because the hirer’s ability to store equipment reinforces the assertion there is perpetual occupation of space within the building.
- The hirer is the only user of the premises during the course of a week and there are no other church activities taking place around or in between the hirer’s use, aside from an act of worship on a Sunday.
- The hirer’s occupation is for extended periods of time. EG if the hirer is in the premises for 3-4 hours per week, then this presents little risk so far as adverse possession is concerned. If the occupation is 3-4 hours per day or more, 5 days a week, then a formal lease agreement should probably be explored.

Each situation will need to be considered on its own merits. We are happy to assist churches in weighing up the degree of risk they face by the kind of hirers activities they are catering for, and where appropriate refer them to our professional advisers where the risks are deemed to be greater.