



Residential Tenancies

Guidance on the use of Residential Tenancies including Assured Shorthold Tenancies (AST's) for letting out residential property.

 Updated 24 Jul 2018

Granting Residential Tenancies

Managing Trustees often enter into tenancy agreements with third parties, usually Assured Shorthold Tenancies (ASTs) of Methodist residential property such as Manses, investment property or caretakers flats that are not required from time to time.

Managing Trustees who decide to let residential property will need to consider many issues including how long to let the property for: If the property is a Manse, when do the Managing Trustees think they will next need the property to house a presbyter or lay-employee? Managing Trustees also need to consider what form(s) of security to take to protect the charity such as a deposit or asking for guarantor (being a third party to guarantee the tenant's obligations). Another important issue for Managing Trustees is the statutory requirements that are increasingly placed on landlords; the need to ensure that any required works or safety checks are carried out and alarms fitted so that the property is suitable to be let out. TMCP Legal will provide guidance on the requirements to help Managing Trustees to fulfil the duties placed on them as landlord in addition to the general duties placed on them as charity trustees and managing trustees.

Before advertising the property for let or starting negotiations with existing or potential tenants for a new tenancy, Managing Trustees need to obtain advice from a letting agent on the level of market rent and any recommendations that the letting agent may have as to what terms are in the best interests of the charity.

TMCP Legal has now produced a template form of AST ([Template AST](#)) that follows Methodist law, policy and best practice, includes the required template clauses and is in an approved form. The Template AST has been prepared for the exclusive use of Managing Trustees and is available on request from [TMCP](#).

Charity law and Methodist law, policy and best practice requirements on letting Model Trust Property on a residential tenancy

Managing Trustees can follow the steps set out in the [Residential Tenancy Guidance](#) to help them to fulfil the charity law and Methodist law, policy and best practice requirements that must be satisfied before the grant of a residential tenancy.

In summary the Managing Trustees will need to:

- log a project on the Consents Website so that the three levels of consent can be entered
- obtain confirmation of market rent and best terms for review by TMCP
- obtain confirmation as to whether the tenant is connected to the charity within the meaning of s.118 of the 2011 Act
- ensure that the [Template AST](#) is completed correctly and sent to TMCP for approval. If a Non-Template AST is used, the tenancy agreement includes the [Residential Tenancy \(Landlord\) Template Clauses](#) and that agreement is sent to [TMCP Legal](#) for approval

- provide confirmation of advice having been given on the statutory requirements regarding tenancy deposits (if a deposit is taken) and the same are being complied with
- provide confirmation that all other statutory requirements will be fulfilled

Grant of a Tenancy to an Existing Tenant

If Managing Trustees are considering entering into a new lease with an existing tenant, please note that the requirements summarised in the [Residential Tenancy \(Landlord\) Checklist](#) will still apply except, in limited circumstances, with regard to obtaining Final Consent ([Section B1 of the Residential Tenancy Guidance](#)). Managing Trustees should obtain advice on market rent and best terms from their letting agent before starting negotiations with the tenant to ensure that the best interests of the charity are protected.

If the proposed term of a Residential Tenancy is to be for less than 6 months

The Managing Trustees should be aware that it is unusual for an AST to be granted for a period of less than six months. In particular, when an AST is granted for a fixed term of less than six months the Managing Trustees will be unable to recover possession within the first 6 months of occupation even though the fixed term has come to an end, unless the tenant leaves voluntarily.

Therefore, practically speaking if the tenant decided at the end of the three month fixed term that they were not willing to vacate the property then the Managing Trustees would have no option but to allow the tenants to remain in occupation until the end of the six month period where they could then take formal steps to recover possession of the property via the Courts.

For further information please refer to the AST guidance note.

Residential Tenancy Guidance

The Granting Residential Tenancies guidance notes aim to help Managing Trustees fulfil the charity law and Methodist law, policy and best practice requirements as well as to understand residential tenancies and the statutory requirements placed on landlords generally:

- [Residential Tenancy \(Landlord\) Checklist](#)
- [Residential Tenancy Guidance](#)
- [Residential Tenancy \(Statutory Requirements\) Focus Note](#)
- [Residential Tenancy \(During\) Focus Note](#)
- [Residential Tenancy \(Ending\) Focus Note](#)
- [Template AST](#)
- Template Ground 5 Notice Template
- [Residential Tenancy Document Guide \(Template AST\)](#)
- [Residential Tenancy \(Landlord\) Template Clauses](#)

Managing Trustees may also find the following News Articles of assistance:

- Legislation Update – Residential Tenancies
- Legislation Update – Right to Rent

Managing Trustees in Wales may find the following TMCP guidance of assistance:

- [Rent Smart Wales Focus Note](#)
- [Rent Smart Wales Property Information Form](#)

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