



# Granting a Non-Residential Lease to a Third Party

Information and guidance on granting a non-residential lease of Methodist property

 Updated 20 Jun 2017

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## Non-Residential Leases

Managing Trustees may find they have surplus space from time to time, such as rooms and offices in the church building, a detached school room, garages or maybe a tennis court, and decide to let it out. It could be that whilst the space in question is surplus to requirements it is not possible or in the best interests of the charity to sell the whole or parts of the property outright. Retaining property can enable Managing Trustees to generate income in the short term and leave open possibilities for Mission in the future.

If Managing Trustees have decided that they want to explore the possibility of letting the whole or part of Methodist property they should obtain professional advice from a surveyor as soon as possible. This will assist Managing Trustees in identifying the options available to them, confirm whether their decision to let is in the best interests of the charity and if so, provide important guidance on negotiating terms that are in the best interests of the charity. Please ensure that the surveyor is given a copy of the [Non-Residential Lease \(Landlord\) Heads of Terms](#) so that he/she is aware of the terms on which Model Trust Property can be let under charity law and Methodist law, policy and best practice. Managing Trustees should discuss with their surveyor and /or legal adviser any particular requirements that they may have such as the right to terminate (break) the lease if there is the possibility that the site could be redeveloped or sold in the future, rights of access over the property being let for Managing Trustees and other users of the site or even use of the space being let for seasonal events such as an annual fundraising or weekly worship or youth groups.

If Managing Trustees propose or are advised to grant a lease of more than 7 years then the advice of the surveyor will need to take the form of a full Qualified Surveyor's Report (QSR).

A copy of the QSR or written advice (for a lease of 7 years or under) would need to be sent to TMCP for review and approval before the property was placed on the market or negotiations were undertaken with potential tenants.

Managing Trustees who are considering the different options available for use of Model Trust Property by third parties may also find the guidance on the [Letting Property and Third Party Use page](#) of assistance. Those Managing Trustees who are looking into or advised of alternative disposal options, such as a sale, may find the [Sales page](#) of assistance.

## Charity law and Methodist law, policy and best practice requirements on letting Model Trust Property

There are various charity law and Methodist law, policy and best practice requirements that must be fulfilled before Methodist Model Trust Property can be let to third parties.

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 either competent advice on the recommended terms of the lease (if the lease term is 7 years or less) or a full Qualified Surveyor's Report (if the lease term is more than 7 years) for review by TMCP

- obtain confirmation of market rent and adequate marketing
- obtain confirmation as to whether the tenant is connected to the charity within the meaning of s.118 of the Charities Act 2011
- ask your legal advisers to ensure that the lease includes the [Non-Residential Lease \(Landlord\) Template Clauses](#) and that the draft lease is sent to [TMCP Legal](#) for approval

## Lease Guidance

The [Non-Residential Lease \(Landlord\) Guidance for Managing Trustees](#) aim to help Managing Trustees to navigate their way through the charity law and Methodist law, policy and best practice requirements on the grant of a non-residential lease to a third party:

On the grant of any non-residential lease Managing Trustees should consider:

- [Non-Residential Lease \(Landlord\) Checklist](#)
- [Non-Residential Lease \(Landlord\) Guidance for Managing Trustees](#)
- [Non-Residential Lease \(Landlord\) Guidance for Solicitors](#)
- [Non-Residential Lease \(Landlord\) Heads of Terms](#)
- [Non-Residential Lease \(Landlord\) FAQs](#)
- [Non-Residential Lease \(Landlord\) Template Clauses](#)

On the grant of a non-residential lease of more than 7 years Managing Trustees should also review:

- [QSR Focus Note](#)
- [QSR \(Preparing\) Focus Note](#)

## Grant/Renewal of a Lease to an Existing Tenant

If you are considering entering into a new lease with an existing tenant, please note that the requirements summarised in the [Non-Residential Lease \(Landlord\) Checklist](#) will still apply. The requirements apply to the grant of a new lease to an existing tenant, whether that tenant is what is known as a “protected” tenant (meaning that they have certain rights under the [Landlord and Tenant Act 1954](#) (1954 Act) to a new “renewal” lease at the end of the term) or a tenant without the protection of the [1954 Act](#). It is strongly recommended that you speak to your solicitor to obtain advice on how best to deal with the lease negotiations to ensure that the best interests of the charity are protected.

## Residential Tenancies

If the Managing Trustees are considering letting Methodist Model Trust Property on the basis of a residential tenancy then please refer to the guidance on Residential Leases.

## Taking a Lease from a Third Party

If the Managing Trustees are considering finding a non-residential property to rent, please [contact TMCP Legal](#) for guidance and refer to the information on Leases to the Methodist Church.

***Please ensure that no leases are entered into until TMCP has confirmed approval to the grant of the lease***

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