



# Taking a Lease from a Third Party

Information and guidance to be considered where the Methodist Church takes a residential tenancy or non-residential lease from a third party, that is, where the Methodist Church will be a tenant

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## Taking a Lease from a Third Party

There are cases where Managing Trustees require additional space and rather than buying a new property, they decide to enter into a lease meaning that the Methodist Church is effectively the tenant. It could be a short term lease of a book shop or a longer term lease of worship space perhaps following the sale of a freehold in an existing building or even a church plant on a new housing estate.

There are many issues for Managing Trustees to consider when choosing a property to rent but the overriding thing to remember is that the Managing Trustees, as prudent charity trustees will need to ensure that the terms of the lease, (the deal on the table), is in the best interests of the charity. Issues for Managing Trustees to consider include whether they can negotiate a lower rent and whether their repairing obligations should be limited by reference to a schedule of condition. Managing Trustees may also need the option to terminate the lease early or at least have the right to transfer (assign) the lease to another party. If the landlord is not willing to negotiate, is it in the best interests of the charity to find an alternative space where the terms are more favourable? Is there a reason why it has to be this particular property?

Managing Trustees will find the advice of their legal advisers and letting agent or surveyor of assistance. TMCP can also provide guidance.

## Involvement of TMCP

All new land and property acquired by the Methodist Church – even on the basis of a short term lease - must be held on the Model Trusts. This is a requirement under Standing Order 901. This means that the legal title will be held by TMCP, in its capacity as Custodian Trustee, on trust for the local Managing Trustees. Effectively, the tenant will be both TMCP and the Managing Trustees together. Under Standing Order 930(3) TMCP is required to give approval to all matters where it is Custodian Trustee. TMCP is therefore required to approve the substance of the transaction in accordance with Standing Order 930(3) and must also approve the documents on behalf of the Connexional Team under Standing Order 931(3).

## Charity law and Methodist law, policy and best practice requirements

Although the requirements where a charity takes a lease can be seen as less onerous than on the grant of a lease by a charity of its property to a third party, there are requirements under the Charities Act 2011 as well as Methodist law, policy and best practice that will need to be fulfilled before the Managing Trustees enter into a lease.

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 competent professional advice to help them to determine whether the terms are in the best interests of the charity for review by TMCP

- obtain confirmation as to whether the landlord is connected to the charity within the meaning of [s.118 of the 2011 Act](#)
- watch out for any potential conflicts of interest and take steps to address such conflicts
- ask their legal advisers to ensure that the draft lease includes the Lease to TMCP Template Clauses and that the draft documents are sent to TMCP Legal for approval

## Residential tenancies to the Methodist Church

Sometimes, Circuits and Districts may need to enter into a residential tenancy arrangement. This can be where there is a need for a Deacon to be provided with a property immediately but there are not enough existing Manses in the Circuit or District and purchasing a property could take time. If Managing Trustees are considering entering into this type of agreement, please [contact TMCP](#) so that further guidance can be provided including the template clauses that would need to be included in the tenancy agreement. Please also refer to TMCP's [guidance](#) on the grant of residential tenancies and the links to government guidance on residential tenancies which is applicable to both landlords and tenants.

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

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