



Guidance for Schools on Property Transactions

Purpose

The purpose of this note is to describe the approval processes under the Unified Corporate Model for property related transactions. Please note, this guidance is essentially unchanged from current arrangements.

Approval required by MSPC

All property operated by the nine Trust Schools is owned by the Methodist Schools Property Company ("MSPC") as Trustee of the amended 1903 Trust. This covers all existing land and buildings as well as all new land and buildings acquired for, or developed by, the schools in the future. The Schools will pay directly for any land or buildings acquired/ developed, usually supported by a loan from MIST - but MSPC will own the assets as Trustee of the 1903 Trust.

The Schools have the use of the School Property and enjoy the economic benefits arising from their use but do not have legal ownership. No rent is charged to the Schools by MSPC for the use of the School Property.

As MSPC owns the School Property it will benefit from the proceeds of any sale, but will take into account any reasonable request from the School to reinvest the proceeds in another project at that School.

As per Clause 4.5.4 of the Instrument of Government, MSPC retains the right as owner to decide of its own volition to dispose of or acquire School Property. If it does decide to dispose of School Property, MSPC will consult with the School Governors on both the intention and the purpose of the disposal, providing 90 days' notice to the relevant School of its intention to dispose in order to provide an opportunity for the School to respond and produce counter proposals if considered appropriate. This is expected to occur in only very exceptional circumstances.

The process

Basically any transaction which deals with the granting of rights over property for the nine Trust Schools will require both the prior approval of MIST Trustees and MSPC as Trustee of the School Properties. MSPC as owner will be required to sign the necessary documentation.

This applies to the following types of transactions of whatever value:

- charges;
- purchase of land and buildings;
- sale of land and buildings;
- taking on a new lease, surrendering or disposing of an existing lease;
- a deed of easement, including a wayleave.



Please note this is not an exhaustive list - any transaction relating to School Property not covered above should be referred to the MIST Director of Finance in the first instance to confirm what approvals will be required.

For any transaction of this nature the School must prepare a proposal which is submitted to the MIST Director of Finance who will co-ordinate the request to the MIST Finance Committee and MIST Trustees as needed for approval and then to MSPC for signature. Financial levels determining which bodies can authorise a transaction are set out in the MIST Financial Procedures Manual. Transactions involving a disposition of an interest in land will need to comply with the requirements of the Charities Act 2011 in the usual way.

Licences

There are other transactions which authorise an external party to make use of facilities as part of a Licence - for example where access is provided to a club to enable the club to make use of facilities.

Licences can be entered into by the School directly with the third party without reference to MIST. A licence (as opposed to a lease) does not give the third party any rights over the property - if it did, it would not be a licence and would require the signature of MSPC. If a School is unsure as to whether they are granting a licence or a lease, prior approval from MIST should be sought. Granting a lease by mistake can have serious implications and may, for example, give the occupier permanent rights of occupation. Particular care should be taken where there is any element of commercial or business use (which includes use by sports clubs).

By way of assistance, the following are common characteristics of a lease:

- Exclusive possession of land/buildings;
- Fixed term;
- A rent.

Any licences would be entered into using the following signature block:

[Name of School] a part of the Methodist Independent Schools Trust, a charitable company limited by guarantee (charity number 1142794 and company number 7649422) with registered office address of 25 Marylebone Road, London NW1 5JR, and with school address of [School address].

Staff Accommodation

Some staff are provided with accommodation for the better performance of their duties. The agreement governing such occupation of school premises should be prepared at the same time as the employment contract is entered into (with whoever prepares the employment contract overseeing the preparation of the occupational agreement). In some instances it will be appropriate for the employee to be given a service occupancy and the School will be responsible for ensuring that any taxable benefit



arising from these occupancy agreements is properly declared. A template for a service occupancy agreement is attached.

JMW

July 2017

Licence Agreement

DATED

20

**[NAME OF SCHOOL],
A PART OF THE METHODIST INDEPENDENT SCHOOLS TRUST**

-and-

[NAME]

AGREEMENT FOR A SERVICE OCCUPANCY

THIS AGREEMENT is made the

day of

20

BETWEEN

(1) [Name of School] a part of the Methodist Independent Schools Trust, a charitable company limited by guarantee (charity number 1142794 and company number 7649422) with registered office address of 25 Marylebone Road, London NW1 5JR, and with school address of [School address] ("the Employer"); and

(2) [] of [] ("the Occupier")

NOW IT IS AGREED as follows:-

1 **DEFINITIONS AND INTERPRETATION**

In this agreement:-

1.1 "the Contract of Employment" means the employment agreement dated [] and made between (1) the Employer and (2) the Occupier.

1.2 "the Premises" means [].

1.3 "the Contents" means the furniture furnishings installations and other items licensed for use with the Premises set out in the inventory annexed to this agreement and signed by the Employer and the Occupier.

1.4 "the Licence Fee" means £[] per month payable by the Occupier to the Employer in advance on the first day of each month

2 **EMPLOYMENT**

2.1 The Occupier is employed by the Employer under the Contract of Employment as a [].

2.2 The Employer requires the Occupier to reside at the Premises for the better performance of his duties under the Contract of Employment and it is an express term of the Contract of Employment that the Occupier resides at the Premises.

3 **LICENCE**

3.1 The Employer permits the Occupier to occupy the Premises during the period of his employment under the Contract of Employment.

3.2 It is hereby agreed and declared and the Occupier acknowledges that the Occupier's occupation of the Premises shall be as licensee at will only and this agreement shall

not confer exclusive possession upon the Occupier nor create the legal relationship of landlord and tenant between the parties or to give the Occupier any estate or interest in the Premises and the Occupier shall not be entitled to an assured tenancy or a statutory periodic tenancy under the Housing Acts 1988 and 1996 or any other statutory security of tenure now or upon the determination of this agreement.

4 **RESTRICTIONS ON ASSIGNMENT AND SUCCESSION**

The licence to reside in the Premises conferred by this agreement is personal to the Occupier and is not assignable in any way nor will any person be entitled to remain in the Premises upon the death of the Occupier.

5 **OCCUPIER'S AGREEMENTS**

The Occupier agrees with the Employer:-

- 5.1 to pay the Licence Fee
- 5.2 to reside in the Premises so long as the Contract of Employment continues for the proper performance of his duties under the Contract of Employment.
- 5.3 to pay for all gas and electricity consumed on or supplied to the Premises and all telephone charges incurred during the period that the Occupier resides at the Premises and will pay to and indemnify the School against any water rates (or, if the supply is metered, all charges made for the use of water), council tax community charge or similar tax or levy payable by the School during the period that the Occupier resides at the Premises in respect of the Premises and will pay such sums at the times prescribed by or under statute and otherwise on the dates upon which the Licence Fee is payable.
- 5.4 to keep the Premises and Contents in good condition and to make good all damage.
- 5.5 to replace with articles of the same kind and value any items of the Contents which may be lost damaged or destroyed (fair wear and tear excepted) or pay for them to be replaced as reasonably requested by the Employer.
- 5.6 not to remove the Contents from the Premises.
- 5.7 to ensure that the Premises are cleaned daily and that all rubbish is disposed of daily in the rubbish bin provided.
- 5.8 not to use the Premises except as a private residence and sleeping place for the Occupier and the Occupier's spouse. Any other use of the premises must have the prior approval of the Employer which should be gained via written application to the Bursar.

- 5.9 not to assign, underlet or part with possession of the whole or any part of the Premises and not at any time to take in lodgers.
- 5.10 upon ceasing to be employed under the Contract of Employment for whatsoever reason or upon the determination of this agreement by any other event referred to in clause 6 of this agreement to vacate the Premises promptly and to make good or pay for repair of any damage to the Premises and to repair or replace any items of the Contents which may have been lost damaged or destroyed (fair wear and tear excepted), and to return the keys to the Premises to the Employer.

6 DETERMINATION OF LICENCE

- 6.1 The licence conferred by this agreement shall determine upon the occurrence of any of the following events subject to and without prejudice to the rights and remedies of the Employer in respect of any monies owing to it and/or any breach of this agreement by the Occupier:
 - 6.1.1 upon the determination of the Contract of Employment for whatsoever reason
 - 6.1.2 upon the Occupier ceasing to reside in the Premises.
 - 6.1.3 upon the expiration of not less than 4 weeks' notice in writing by either party to the other given at any time separate and apart from any notice under the Contract of Employment.
- 6.2 For the avoidance of doubt, in the event of the death of the Occupier, the Employer will serve 4 weeks' written notice on the Occupier's personal representatives and/or spouse and the Occupier's spouse will be required to vacate the Premises upon the expiration of that notice unless agreed otherwise with the Employer.

Signed by (On behalf of the Employer)

In the presence of:

Witness:

Address:

Signed by(Occupier)

In the presence of:

Witness:

Address: