

## SECTION 11: RESIDENCY ARRANGEMENTS

There are two types of residency arrangements available to church employers:

- 1 Licence
- 2 Tenancy

### Licence

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A “licence to occupy” arises where the property is made available under the contract of employment for the better performance of the occupier’s duties as an employee. The contract of employment must state that it is a condition of the employment that the employee resides in the property for the better performance of their duties. The licence terminates automatically when the employment terminates. The documents “The Methodist Council Conditions of Residential Occupancy” (see Appendix 11.1) must be issued with the contract of employment.

There is likely to be a taxable benefit attributable to the provision of the property, which the employing body must declare to HMRC.

### Tenancy

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A tenancy agreement is a separate agreement between an owner and a prospective occupier that is not directly linked to the contract of employment. This is in effect a private agreement and the owner should charge the best rent that can be reasonably obtained for the property on the basis of appropriate advice as required by charity law and the agreement approved by the Connexional Property Committee (Standing Order 931(3)).

#### Special Notes

Church employers should not provide “free” accommodation in lieu of pay for carrying out specified duties (for example caretaking church premises). Such arrangements are uncertain in their nature, and could imply the relationship of employment, as the occupier will effectively be receiving a benefit for carrying out work. This may lead to an obligation for the employer to pay National Minimum Wage and National Insurance Contributions.

#### Legal Guidance

Before entering into any tenancy agreement it is advisable to seek information and legal advice from the Legal Section, TMCP in Manchester on 0161 235 6770 or from a solicitor.