

Report Title: **Council Community Buildings Portfolio**

Report of: **Director Corporate Resources**

Wards(s) affected: **All**

Report for: **key decision**

**1. Purpose**

- 1.1 To set out the current position of the 44 buildings occupied by Community organisations and managed by Corporate Property Management Services
- 1.2 To propose standard heads of terms and conditions that should be adopted for any future lease arrangements for community use.

**2. Introduction by Executive Member**

It is important that all the buildings which we hold on behalf of the people of Haringey are properly maintained and are used to help deliver the priorities of their elected Representatives.

In this paper we set out a system for ensuring that our community buildings are well managed and that the council takes on the role of a good landlord and as such, we assist our partners in delivering a wide variety of services for local people through our property portfolio.

The report includes Heads of Terms for a standard lease which should form the basis for negotiations for any new or renewed lease. This should over time lead to a more standard and transparent approach across the portfolio.

At the moment it will apply to the 44 properties in Appendix 1. If it is successful, it may be applied to further properties in the future, but this would be the subject of a further report to the executive.

**3. Recommendations**

- 3.1 To note the current unsatisfactory position pertaining to the 44 buildings that are subject to varying terms of occupation and responsibility which has resulted in a general decline in the physical condition of the building stock.

- 3.2 To agree a policy framework for all future **community use** of Council buildings to be linked to the Community Strategy objectives and **occupation by community organisations** should be in accordance with good asset management practice with the Council acting as a an effective and **socially responsible landlord**.
- 3.3 To agree that the Heads of Terms and conditions for any new leases, as set out at Appendix 2, be adopted and that officers be instructed to also seek to implement these standard terms and conditions on existing agreements as they are renewed, either by agreement or through negotiations, subject to there being no existing adverse financial considerations of so doing.
- 3.4 To note that whilst under the terms of the proposed new lease the Council will retain responsibility for structural and external repairs and maintenance, which will enable better control over the condition of the properties.
- 3.5 To note the need for a dedicated post within Corporate Property Services to actively manage this portfolio and achieve the outcomes proposed in this report .To this effect the Head of Corporate Property Services has made a bid for this in the current business planning process.
- 3.6 To agree that officers take action where it is considered that the Council is at risk due to the non compliance of tenants terms particularly in regard to Health & Safety implications. To this effect a programme of joint inspections are being set up with officers from Health and Safety, Voluntary Sector Team and Corporate Property Services.
- 3.7 To agree further individual reports be brought back to the Executive, as required, on individual Community Buildings where decisions are required as to future use, condition or management.

Report Authorised by: **Andrew Travers Director of Corporate Resources**

**Signature:**

**Date:**

Contact Officer: **Malcolm Dawes, Property Development Manager**

#### **4. Executive Summary**

- 4.1 This report sets out conclusions from a review of the Community Buildings portfolio that are within the Corporate Property Services current management,
- 4.2 A policy framework has been set out for the future community use and occupation by community organisations.
- 4.3 The report sets out proposed standard Heads of Terms that members are recommended should be adopted for any future leases and where, legally possible, should be adopted for any renewals, subject to there being no existing adverse financial considerations of so doing.

4.4 Subject to a review of the financial and other implications and those implications being resolved, other community buildings identified as such should also be brought within the remit of the proposals contained within this report and brought back to the Executive, as required.

## **5. Reasons for any change in policy or for new policy development (if applicable)**

5.1 There is an inconsistent approach to lease arrangements.

5.2 In addition there are, and are developing, health and safety risks that need addressing now and for the future. This is because either the tenants who in the main have responsibility for such matter have no money to do the necessary works or the Council, in the past, has entered into onerous obligations and not been able to set aside sufficient funds to comply with such obligations.

5.3 In line with developing excellence and the management of the Council's assets; and in deciding if the Council wishes to continue to supply such accommodation in the way it has done in the past, changes in policy are recommended in this report.

## **6. Local Government (Access to Information) Act 1985**

6.1 Report to Voluntary Sector Grants Committee on 6<sup>th</sup> September 2005

## **7. Background**

7.1 This report deals in the main with the 44 properties in the Corporate Property Services management. Occupation of a lot of these properties, it is understood, was brought about through the former Community Services Directorate. Many of the properties were also originally occupied by groups, without formal agreements or leases (some still are).

7.2 Many of the existing agreements mean that either the Council is responsible for all, or an element of, the repair and maintenance of the buildings. Many repairs and ongoing maintenance obligations of the Council have not been budgeted for, or carried out in a timely manner and, in some cases, there has not been any.

7.3 In cases where the buildings have been let on a FRI basis (full repairing and insuring) a number of tenant organisations have not carried out their responsibilities and premises have fallen into disrepair; in a few cases it is believed to be causing health and safety risks which need to be addressed quickly. The usual reason for this is lack of funds and/or the skills within community organisations to manage the properties concerned.

7.4 In some cases occupation of the premises may have changed without the permission and/or knowledge of the Council.

7.5 It is therefore evident that further detailed reviews of the use, occupation and management of each of the properties individually are needed.

7.6 This report sets out the findings from the internal review process and recommends a way forward.

## **8. Description**

8.1 The Council's 44 Community Buildings portfolio, currently the responsibility of the Head of Corporate Property Services, is made up of a mix of property types held on a mixture of tenures which has been built up over decades.

8.2 The Council has, for sometime not had a transparent, clear and recognisable policy for these types of lettings, nor has sufficient resources been employed to manage them.

8.3 Many of the buildings suffer from a decline in the physical condition due to lack of clarity as to who is responsible or for lack of Council or Community organisations funds.

8.4 There has also been insufficient resourced management and, for what ever reason, a lack of joined up activity within the Council and not a proactive response to breaches of repairing and other obligations on both sides.

8.5 There is also a need to assess the risks arising from lack of repairs and non compliance with statutory obligations e.g. Fire regulations, Asbestos inspections, etc to address key Health & Safety problems.

8.6 Many are not fully accessible and some do not appear to be compliant with the Disability Discrimination Act. At the very least this seems to be against the spirit of becoming more inclusive with these community buildings being used for the benefit of those in social or welfare need or vulnerable groups.

8.7 In some cases the Council has entered into very onerous terms and conditions which either leave it powerless to change for many years without controversial litigation, make it vulnerable to costly litigation against it, or are exceedingly costly.

8.8 Examples of recent problems that have occurred:-

- There is a Health and Safety investigation in progress following the death of a contractor on site that one of the voluntary associations had employed.
- One of the properties structural and exterior repairs has been estimated at £100,000. The Council is liable under the terms of the lease in this regard and are endeavouring to carry out the required repairs. However it should be noted this property is let on a peppercorn term and therefore there is no income generated by this asset.
- In several cases the Council has been denied rights of access and therefore the Council has been unable to confirm the condition and health and safety issues of these properties.
- An associations that was offered funding to repair or refurbish their property if they would consider shared use of their over capacity of space with other community groups have refused unless the control of the building remains completely with them.

- 8.9 The way in which rents have been set appears to be inconsistent and in some cases occupiers have been let into premises without formal agreements as to rent and other terms.
- 8.10 It would appear some of the properties may not be fully utilised and local Community requirements may also have changed.
- 8.11 Having said all this there are some that are being run efficiently and effectively giving great benefits to the local and wider community.
- 8.12 Given the above it is clear that matters cannot continue as they are and it is also clear that these premises require much more pro-active management by the Council with dedicated resources to do so, at least in the short to medium term.
- 8.13 The Councils key objectives require a thorough assessment of its property assets and therefore the Council will need to analyse and decide if the current form of management of the portfolio is the way in which it wishes to continue.

## **9. Community Use and Occupation by Community Organisations – Policy Framework**

- 9.1 One of the key principles in the Corporate Asset Management Plan is to use Council assets directly or in partnership with other organisations in the achievement of service priorities and key policy objectives set out in the Community Strategy.
- 9.2 It would be good practice for the Voluntary Sector Team, when prioritising competing uses for properties with new or renewed leases, to link with the various corporate processes in a golden thread from policy through to resource allocation including PBPR and budget setting.
- 9.3 Once a community use priority is determined there is a need to apply an objective, transparent and equitable approach for deciding and agreeing the terms of occupation by specific organisations. It is proposed to apply the following asset management and community use criteria for that purpose:
- Community Use & Occupation – this should be for the benefit of the community and subject to the same definitions and priorities as applied by the Council in its service priorities and Community Involvement Strategy. It should be an evolving portfolio to meet the community needs and ensure effective use within individual buildings to optimise the use of space.
  - Inspection of Premises – The Council's representatives shall have a right to inspect the premises for any purpose under the terms of the lease and at any reasonable time, subject to giving the Tenant/s one weeks notice, except where it is considered that there is a breach of the health and safety legislation and immediate access may be required.
  - Length of Leases – presumption for short term (maximum 5 years) to provide a balance between the needs of the group for stability and to enable the Council to react to changing priorities and new users. If longer lease periods are required to enable the organisation to qualify for funding these should be subject to individual assessment and Member approval.

- Option to Break – regardless of the term all leases will contain break clauses to enable the Council to react to future changes in circumstance and the potential redevelopment and disposal opportunities that may arise.
- Rent levels – to be assessed as market rent for the use proposed (i.e. reflect community use benchmarks) to ensure a transparent and equitable process. The Council to maintain the right to take appropriate and firm action in regard to any rent arrears, this to include the use of bailiffs and ultimately eviction for persistent offenders
- Sureties and safeguards – Personal guarantees will not be required as it is recognised that trustees of community organisations acting in a voluntary capacity will not be able to, nor are they likely to be prepared to provide such sureties. However a deposit of three months rent will be required.
- Repairs liability – Council to retain responsibility for all structural and external repairs and maintenance to protect the asset with a service charge for this. For clarity this to be limited to floors, roof, foundations, lifts and external walls. Tenant to be responsible for **all** internal repairs, gas, water, electricity, telecommunication, glass and any other services and decorations.
- Taxes and utilities – tenant to be responsible for NNDR, utilities and any other charges relating to the occupation and use.
- Health & Safety and other legislation requirement – tenant to be responsible for complying with all health & safety legislation and any other such legislation pertaining to their use of the premises
- Insurance – The Council will insure the building as part of its block policy. The tenant is to repay the premiums to the Council. The tenant to insure the fixtures and fittings and plate glass at their own expense.

9.4 As a socially responsible landlord it is proposed that a Community Buildings Landlord and Tenant Handbook is prepared to clarify roles, responsibilities and provide practical guidance and information for community organisations to assist them with their building management responsibilities.

## **10. Consultation**

10.1 The Corporate Voluntary Sector team (CVST) has been involved in this report and the consideration that has been involved in its making.

10.2 That Haringey Association of Voluntary and Community Organisations (HAVCO) were consulted and their comments incorporated on the proposed Heads of Terms established by this report.

10.3 Actions that will be required as a result of this report, if Members agree it, will need to be very sensitive to the local Communities that are involved in the current buildings, and those in the areas concerned that have unfulfilled community building needs.

10.4 Therefore wider consultation will be necessary when dealing with the individual problems associated with each of the properties to be considered

## **11. Summary and Conclusions**

11.1 This report seeks to advise Members of the current position but also outlines options for the future direction of the portfolio.

11.2 Although, given the existence of current arrangements and leases, it can not immediately solve all the current issues it provides an understanding of the future policy and will help establish a clearer understanding between the Council and the Voluntary Sector.

## **12. Recommendations**

12.1 As in 3.1

## **13. Legal and Financial Comments**

13.1 The Council has a duty to ensure its assets are in good condition and fit for purpose. There may be some short term resource requirements to address health and safety requirements which will need to be included in the capital programme planning process. This report recommends the Council is responsible for structural and external repairs, where in some cases, currently the tenant is. This will impact on future capital budget demands, but will also reflect on the rent levels of the properties.

13.2 It is recognised that in order to proactively manage these buildings in a more effective way there will be a bid for a dedicated post in Corporate Property in the business planning process.

13.3 This report provides a general view of the various tenancies at present in existence in these properties. Legal advice must therefore be obtained on how best to deal with each individual tenancy if these are still subsisting. Tenancies mentioned in this report may have the protection of Part II of the Landlord and Tenant Act 1954 ("Act") (unless specifically contracted out). Officers may find that in dealing with these protected tenancies there is very limited scope to change the terms without the cooperation of the tenants as otherwise the court will have the power to determine the terms. It is noted that there are those who are in occupation without any formal lease having been entered into. This is a situation that must be rectified immediately as legally it puts the Council in a disadvantage as to the terms and conditions governing such occupation and in some case such occupation may even have the protection of the Act. In order to gain possession of such protected tenancies the Council can only use the statutory grounds set out in the Act.

## **14. Equalities Implications**

14.1 The Council's portfolio of community buildings are let to groups representing a wide variety of the borough's community.

## **15. Use of Appendices / Tables / Photographs**

15.1 Appendix 1 Community Buildings under the responsibility of Corporate Property  
Appendix 2 Proposed draft Lease Terms