

Report of:	Head of Housing & Partnerships
Contact Officer:	Rhiannon Holland
Telephone No:	01543 464526
Portfolio Leader:	Housing
Key Decision:	No
Report Track:	Cabinet: 14/06/18

CABINET
14 JUNE 2018
POLICY IN RESPECT OF APPLICATIONS FOR RENT SUBSIDY FROM
COMMUNITY/VOLUNTARY ORGANISATIONS

1 Purpose of Report

- 1.1 To seek Cabinet approval to the draft policy attached as Appendix 1 in respect of community/voluntary organisations wishing to lease Council owned land/premises at a subsidised rent.

2 Recommendations

- 2.1 That Cabinet reviews the draft policy attached as Appendix 1 in respect of community/voluntary organisations wishing to lease Council owned land/premises at a subsidised rent and approves the policy for implementation.
- 2.2 That, if approved, Cabinet delegates authority to the Head of Housing and Partnerships to implement the policy in respect of community/voluntary organisations wishing to lease Council owned land/premises at a subsidised rent.

3 Key Issues and Reasons for Recommendation

- 3.1 Section 123 Local Government Act 1972 requires that a local authority obtains best consideration in the disposal of its land (which generally means obtaining market value). The term "disposal" includes the grant of a lease for a term of over seven years
- 3.2 A local authority can however can grant a lease of more than seven years at an undervalue (ie. below market value), if it can demonstrate that the arrangement contributes to the improvement of the social, economic or environmental well-being of the area, or its inhabitants.

- 3.3 When existing leases of Council land/premises approach expiry Property Services implement lease renewal action under the provisions of the Landlord and Tenant Act 1954 (where applicable) and in accordance with the requirements of the Local Government Act 1972. Action by the Council in accordance with the relevant legislation often results in market rental values that are considerably higher than tenants have previously paid.
- 3.4 The Council has been approached on a number of occasions by organisations run as voluntary or community organisations who contend that payment of a market rental will render them unable to continue to operate. On this basis they generally seek a lease or a renewal lease at a favourable rent that is below market value.
- 3.5 The decision as to whether the occupation of Council owned land/premises by a particular organisation contributes to the “well-being” of an area or its inhabitants, and should be granted a lease at a favourable rent, is currently beyond the extent of officers’ delegated authority. Consequently, where an organisation seeks to occupy Council owned land/premises at a favourable rent then a report to Cabinet is required.
- 3.6 To date Cabinet has considered each approach from voluntary/community organisations on an individual basis. There are currently no standard criteria that the Council applies when assessing whether an organisation satisfies the test of “well-being”. This leaves the Council vulnerable to accusations of inconsistency regarding favourable rents for community/voluntary organisations.
- 3.7 The draft policy attached as Appendix 1 sets out criteria by which applications for a favourable rent will be decided by the Council. In addition, the draft policy contains operational standards and examples of good practice that the Council expects an organisation in receipt of a favourable rent to adhere to.

4 Relationship to Corporate Priorities

- 4.1 The proposed policy contributes towards the Council’s corporate priority of Community Wellbeing.

5 Report Detail

- 5.1 A voluntary organisation is defined as one that exists to provide a specialist or contracted service to its users, is led by a management board, has an income and a formal structure. A community organisation is a member led group, formed to pursue a common interest or cause and has a less formal structure. Both voluntary and community organisations may or may not be registered charities.
- 5.2 The Council has been approached on a number of occasions by organisations run as voluntary or community organisations who contend that payment of a market rental will render them unable to continue to operate. On this basis they generally seek a lease or a renewal lease at a rent that is below market value.

- 5.3 To date Cabinet has considered each approach from voluntary/community organisations on an individual basis. There are currently no standard criteria that the Council applies when assessing whether an organisation satisfies the test of “well-being”. This leaves the Council vulnerable to accusations of inconsistency regarding favourable rents for community/voluntary organisations.
- 5.4 The adoption of a standard policy for assessing applications from voluntary/community organisations will provide consistency and fairness for applicants as they can be aware from the outset what the Council expects of any organisations for which it grants a favourable rent. Such a policy will also enable the Council to be transparent in its decisions to grant favourable rents to organisations.

6 Implications

6.1 Financial

The adoption of a standard policy for assessing applications from voluntary and community organisations for a subsidised rent will have financial implications for the Council as the budgeted Rent levels will be reduced.

However, these cannot be quantified in this report as they will vary on an individual property basis and will need to be the subject of further reports.

Legal

Section 123 of the Local Government Act 1972 provides that a local authority cannot dispose of land for less than the best consideration that can reasonably be obtained in the market, without the consent of the Secretary of State. The Secretary of State has given a general consent (in the General Disposal Consent 2003) for local authorities to dispose of land (including by the grant of a lease) at an undervalue where such an arrangement would contribute to the promotion or improvement of economic, social or environmental well-being of the area of its inhabitants.

6.3 Human Resources

None

6.4 Section 17 (Crime Prevention)

None

6.5 Human Rights Act

None

6.6 Data Protection

None

6.7 **Risk Management**

None

6.8 **Equality & Diversity**

None

6.9 **Best Value**

See above

7 Appendices to the Report

Appendix 1: Rent Subsidy Applications – Policy and Guidance Note.

Previous Consideration

None

Background Papers

None

Rent Subsidy Applications – Policy and Guidance Note

This guide sets out the conditions that voluntary and community groups need to comply with to be granted a rent subsidy when leasing land/premises from the Council.

1 Introduction

- 1.1 The Council recognises and respects the independence and value of the voluntary and community sector in the Cannock Chase District. It acknowledges the freedom of each organisation to choose its own area of activities and methods of working in accordance with the aims and objectives or terms of reference set out in its governing document. Such organisations make a significant contribution towards one of the Council's corporate priorities - Community Wellbeing.
- 1.2 A voluntary organisation is defined as one that exists to provide a specialist or contracted service to its users, is led by a management board, has an income and a formal structure.
- 1.3 A community organisation is a member led group, formed to pursue a common interest or cause and has a less formal structure.
- 1.4 In this context the Council will consider applications from community/voluntary organisations (including registered charities) for a rent subsidy to enable them to lease Council owned land/premises at a favourable rent ie. below market value. Any such application must be made before the lease is completed.
- 1.5 The policy is intended to provide a simple transparent process that aligns the grant of leases at favourable rents with the Council's corporate priorities. Each case will be treated strictly on its merits and all customers will be treated fairly and equally when the policy is applied.
- 1.6 The decision as to whether or not an organisation satisfies the Council's criteria for a favourable rent is entirely at the Council's discretion as is the amount of rent subsidy the Council will grant.

2 General

- 2.1 The organisation must be non-profit making. Any excess income generated by the organisation must be used for the benefit of the community it serves, in line with its aims and objectives. A realistic and open policy with regard to reserves will be expected to be in place.
- 2.2 The organisation must take positive steps to involve residents and users of services in its management and activities. User feedback should be obtained on a regular basis in order to monitor service provision. Evidence of this will form part of the Council's criteria when assessing whether or not to grant a lease at a favourable rent (examples would be: feedback and consultation exercises, residents and users as part of management committees and involved in shaping/delivering activities, encouraging volunteers from the District etc.)
- 2.3 The organisation must be able to demonstrate that the services provided from the Council owned land/property benefit the local community and that the majority of the beneficiaries are Cannock Chase residents. The organisation must also acknowledge the Council's assistance in any literature and publicity about the work of the organisation, should a lease at favourable rent be granted.
- 2.4 The organisation must be non-party political. Its funds must not be used to pay for publicity which appears to support any political party.

3. Use of the Building or Land

- 3.1 All requests for a favourable rent must be submitted with a proposal that summarises the proposed use of the land or buildings. The property must only be used for the purposes set out in the proposal and in the lease. Any future change in use must be discussed in advance with the Council's Property Services Team and may affect the organisation's ongoing eligibility for a favourable rent.
- 3.2 All leases to organisations at a favourable rent will not be assignable by the organisation, nor will the organisations be permitted to sublet the whole or any part of the land/building leased.
- 3.3 The organisation must ensure that the building it occupies remains compliant with Health and Safety Legislation including all requirements in relation to the provision and maintenance of a health and safety file which the Council may request a copy of at any time.

4. Management Structure

- 4.1 The organisation must have a governing document (or constitution) which is acceptable to the Council. This must provide for equality of opportunity, openness,

user participation and democratic processes. A copy of this document must be submitted to the Council with an application for a favourable rent. The Council must be given advanced notice of any proposed changes to the governing document. Any proposed changes must be in line with charity and company law if appropriate.

- 4.2 The organisation must have a management committee (or equivalent) as specified in its governing document. Members of the committee should be elected or appointed in accordance with the requirements of the organisation's governing document.
- 4.3 The organisation must nominate a member of the management committee to be the main contact for all matters relating to the organisation's lease of a building or land and must notify the Council of any changes to its nomination.

5 Financial Procedures

- 5.1 When making an application for a favourable rent the organisation is required to submit to the Council its annual financial accounts, certified by an accountant, for the three years immediately preceding the application date.
- 5.2 If in receipt of a favourable rent the organisation is required to submit annual financial accounts for all income and expenditure when requested by the Council.
- 5.3 Information on all other sources of funding for the organisation must be made available if and when requested by the Council.
- 5.4 The organisation must be adequately insured to cover all risks (eg. public liability; theft; employer's liability; third party damages). In addition, where premises are not insured by the Council, fire and building insurance should also be maintained by the organisation. The Council accepts no liability for any losses, claims, damages, compensation etc. arising from the existence of and in connection with the organisation.
- 5.5 The Council is committed to the fight against fraud in all its forms. An organisation that fraudulently tries to apply for a favourable rent by falsely declaring its circumstances or providing a false statement or evidence in support of its application may have committed an offence under the Theft Act 1968. Where the Council suspects that such a fraud may have occurred, the matter will be investigated as appropriate and this may lead to criminal proceedings being instigated.

6 Corporate Plan

- 6.1 The Council is committed to working with its partners to deliver current corporate and service priorities. All organisations occupying Council owned land/premises at a favourable rent must be able to demonstrate that their activities make a positive

contribution to the Council's Corporate Priorities: Promoting Prosperity and Community Wellbeing. The Council's policy will be updated to tie in with Corporate Priority reviews.

7 Policies

7.1 The Council expects good practice in all organisations that are delivering a service in Cannock Chase District. The following are recommended as good practice and the Council may request a copy of relevant documents at any time:

- Fair employment practices
- A written compliments, comments and complaints procedure
- Working towards an appropriate Quality Standard.

8 Safeguarding

8.1 If the organisation works with children and/or vulnerable adults it must be able to demonstrate that it has an appropriate safeguarding policy and has carried out the necessary checks, through the Disclosure and Barring Service, on its paid and volunteer staff and carry out relevant risk assessments to ensure safety.

9 Equal Opportunities

9.1 The Council expects all organisations in receipt of a favourable rent to ensure services provided can also be accessed by the wider community regardless of age, gender, race including colour, ethnic or national origins and nationality, disability, pregnancy and maternity, marital or civil partnership status, sexual orientation, gender reassignment, religion or belief ("the protected characteristics").

9.2 The organisation must have a written Equalities and Diversity Policy that applies to all its activities ie. employment, service delivery etc. and must be able to demonstrate that the policy is being implemented, monitored and evaluated regularly.

The organisation's Equalities and Diversity Policy must comply with its statutory obligations under all relevant legislation including the Equality Act 2010.

10 Environmental

10.1 The Council expects all organisations in receipt of a favourable rent to be able to demonstrate that it operates in an ethical, sustainable and environmentally friendly manner at all times and that its activities contribute to developing sustainable communities.

10.2 Contributions can include recycling material, buying from local suppliers and upkeep of premises.

11 Failure to comply with conditions

11.1 In the event of an organisation failing to comply with any of the above conditions, the Council reserves the right to implement a rent review procedure to increase the rent to a market rent.

DOCUMENT CONTROL		
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Owner	Property Services	
Amendment Dates		
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Draft 1	R Holland	May 2018
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