

VOLUNTARY SECTOR LEASING POLICY

Cabinet Member	Councillor Jonathan Bianco
Cabinet Portfolio	Finance, Property and Business Services
Report Author	Greg Morrison; Planning, Environment, Education and Community Services
Papers with report	None

HEADLINE INFORMATION

Purpose of report	This report recommends amendments to the Voluntary Sector Leasing Policy with the intention of making better use of the Council assets leased to voluntary organisations in the future.
Contribution to our plans and strategies	The provision of premises to voluntary sector organisations on terms that are affordable encourages their continued development and contributes to the community development priorities in the Council Plan under the theme “A borough where opportunities are open to all”.
Financial Cost	There is no financial cost to the Council.
Relevant Policy Overview Committee	Corporate Services and Partnerships
Ward(s) affected	All wards.

RECOMMENDATIONS

1. That Cabinet instructs officers, when new leases of Council premises are being negotiated with voluntary sector tenants, to offer leases for a maximum term of 10 years and ensure that they are contracted out of the security of tenure provisions of Part II (Sections 24 – 28) of the Landlord and Tenant Act 1954.
2. That Cabinet instructs officers, when existing leases to voluntary sector tenants are being renewed, to offer new leases with a maximum term of 15 years and seek to also have these contracted out of the security of tenure provisions contained within Part II (Sections 24 – 28) of the Landlord and Tenant Act 1954.
3. That Cabinet instructs officers to invite applications to the Cabinet Member for Finance, Property and Business Services on a discretionary basis, whereby the applicant’s case will be considered on its individual merits, in cases where a new or existing voluntary sector tenant wishes to have a new lease term that exceeds either of the above thresholds.

INFORMATION

Reasons for recommendation

It is considered that amending the current policy in this manner will help the Council to make better use of its property assets going forward.

Alternative options considered / risk management

To continue to grant leases to voluntary organisations for 25 years, as this is generally understood to be the standard lease term by the volunteers representing those organisations, who normally require leases to have an unexpired term in excess of 21 years to facilitate applications for funding.

Comments of Policy Overview Committee(s)

None at this stage.

Supporting Information

1. Leases granted to voluntary sector organisations are classed as business tenancies and as such, currently provide the tenants with security of tenure and a right to a new lease upon expiry under the provisions of Part II (Sections 24 – 28) of the Landlord and Tenant Act 1954 (“the Act”).
2. This means that as long as the Council as landlord is unable to prove that any of the grounds for opposition provided under Section 30 of the Act apply, the organisation as tenant has a right to a new lease under the same terms as before, at an initial rent to be agreed and for a term of up to 15 years, which is the maximum term that could be granted by a Court should the parties be unable to agree by negotiation.
3. The duration of the lease can be longer than 15 years if agreed between the parties, but if they are unable to agree and the lease renewal negotiations end up with applications to Court, 15 years is the maximum term that can be set.
4. It is possible to negate these security of tenure provisions and thereby allow the Council to terminate a lease upon expiry without recourse to the Act if the landlord (i.e. the Council) and tenant (i.e. the voluntary body in question) agree prior to commencement to contract the lease, whether newly granted or upon renewal, out of the provisions of the Act, with notice of the agreement then documented in the wording of the lease.
5. Officers can offer leases that must be contracted out of the Act to new tenants, but when existing leases are renewed they can merely seek to reach agreement on this issue because if the parties are unable to agree and the matter goes to Court, the Court will decide and bearing in mind the tenant’s abovementioned right to a new lease under the same terms as before, it is likely that the Court will not allow the “contracting out” of the new lease in such cases.
6. The existing Voluntary Sector Leasing Policy, as approved by Cabinet in July 2004, provides that the formerly standard lease term of 25 years no longer applies, although no standard duration for leases has been set.

7. It is considered by officers that granting leases of a shorter duration in future will allow the Council to retain increasing control over its portfolio of properties leased to voluntary organisations and by association, make better use of those assets.
8. However, bearing in mind the possible implications for tenants' funding applications that this decision might have, it is also considered reasonable to allow affected tenants, who in certain cases may require funding for improvements to Council owned buildings, to make representations to the Cabinet Member on a discretionary basis if a longer lease term is absolutely required.

Financial Implications

There are no significant financial implications, although it is worth noting that granting shorter leases may have a small, negative effect on the market rental values for the properties in question, as a shorter lease is less valuable than a longer one.

EFFECT ON RESIDENTS, SERVICE USERS & COMMUNITIES

What will be the effect of the recommendation?

The recommendations in this report will ensure that there is no longer any question as to the length of new leases to voluntary organisations being offered by the Council.

Consultation Carried Out or Required

None.

CORPORATE IMPLICATIONS

Corporate Finance

There are no direct corporate financial implications.

Legal

Cabinet has before it a recommendation that it:

1. Instructs officers, when new leases of Council premises are being negotiated with voluntary sector tenants, to offer leases for a maximum term of 10 years and ensure that they are contracted out of the security of tenure provisions of Part II (Sections 24 – 28) of the Landlord and Tenant Act 1954.
2. Instructs officers, when existing leases to voluntary sector tenants are being renewed, to offer new leases with a maximum term of 15 years and seek to also have these contracted out of the security of tenure provisions contained within Part II (Sections 24 – 28) of the Landlord and Tenant Act 1954.
3. Instructs officers to invite applications to the Cabinet Member for Finance, Property and Business Services on a discretionary basis, whereby the applicant's case will be considered on its individual merits, in cases where a new or existing voluntary sector tenant wishes to have a new lease term that exceeds either of the above thresholds.

Under Article 7.08(c) (5) of the Council's Constitution proposing policy development, changes and new policy is a general responsibility of Cabinet.

The recommendation therefore falls within Cabinet's delegations.

Article 13 of the Council Constitution requires that all key decisions follow the seven principles set out therein.

Cabinet should have full regard to the officer's comments in the Information section of this report vis-à-vis the Landlord & Tenant Act 1954.

Corporate Landlord

The Corporate Landlord has authored this report.

BACKGROUND PAPERS

Nil.