



REPORT TO THE MEETING OF CABINET – 18 SEPTEMBER 2024

PORTFOLIO: SPECIAL PROJECTS & ASSETS – CLLR TOM GIBSON

REPORT FROM ASSISTANT DIRECTOR, ESTATES

SUBJECT: VOLUNTARY AND COMMUNITY SECTOR BUILDINGS AND LAND LEASE POLICY

1 PURPOSE OF REPORT

- 1.1 To seek Cabinet approval of the Voluntary and Community Sector Buildings and Land Lease Policy (2024).

2 LINKS TO COUNCIL'S PRIORITIES AND OBJECTIVES

- 2.1 The work set out in this report supports delivery of the Council's priorities and objectives as presented in the Corporate Plan (2021-2024) of People and Place.

3 RECOMMENDATION

- 3.1 It is proposed that Cabinet **RESOLVES**
- 3.2 To approve the Voluntary and Community Sector Buildings and Land Lease Policy as set out in Appendix 1.

4 INTRODUCTION

- 4.1 The Council currently leases circa fifty assets to voluntary and community sector (VCS) organisations. In order to ensure transparency, clarity and consistency in the leasing of its assets to VCS organisations the Voluntary and Community Sector Buildings and Land Lease Policy 'the policy' has been drafted.

- 4.2 The policy aims to establish a consistent approach to all aspects of leasing of Council assets to the VCS.
- 4.3 The policy will introduce a fair, consistent and transparent approach to the way in which assets are valued, rents are set and how discounts are applied, the occupational terms offered, and the way in which premises are allocated to VCS organisations.
- 4.4 The policy underpins and should be read in conjunction with the Acquisition and Disposal Policy (2024).

5 POLICY ELEMENTS

- 5.1 There are four key elements of the policy which will determine the allocation and overall terms of occupancy for VCS organisations in the Council's premises:
- An open and transparent allocations process
 - A valuation and rent negotiation process.
 - A rent subsidy application process
 - A lease through draft Heads of Terms

6 ASSET REVIEW BOARD

- 6.1 The draft policy was considered by the Asset Review Board on 2 September 2024; Members of the board supported the draft policy and asked that it be taken to Cabinet for consideration.

7 OPTIONS

- 7.1 Option 1: Do not adopt the proposed policy. This is not recommended as the absence of a policy would not deliver consistency or transparency in the leasing of Council assets to VCS organisations at a reduced rent. This is the current situation.
- 7.2 Option 2: Adopt the proposed policy. It is proposed that Cabinet adopts the proposed policy as this will put in place an open and transparent approach to the allocation, valuations, terms of occupation and rent levels for VCS organisations. The policy will comply with all legal requirements.

8 RISK IMPLICATIONS

- 8.1 If the Council does not adopt a policy it will open a risk of legal challenge from other organisations seeking to lease assets from the Council. By adopting the policy it will mitigate the risk. There is a risk that by introducing this policy some VCS organisations may be financially impacted to the degree that they

need to review their service offer. As set out in the policy, it may be necessary to support VCS organisations in the introduction of the policy.

9 CRIME AND DISORDER IMPLICATIONS

- 9.1 None directly relating to this report. These would be taken on a case-by-case basis regarding any future disposals where the policy is applied.

10 ENVIRONMENTAL IMPLICATIONS

- 10.1 None relating directly to this report. These would be taken on a case-by-case basis regarding any future disposals where the policy is applied.

11 FINANCIAL IMPLICATIONS

- 11.1 There are currently a number of leases which have been agreed with various different VCS organisations. These have been put in place with varying terms and as a result created inconsistency in rent levels. By implementing a policy, it makes the negotiation of terms consistent, fair and transparent.
- 11.2 As a result of the proposed policy being implemented, some VCS organisations will experience an increase rental figure set at the next lease renegotiation. Conversely, it is possible that some organisations may experience a decrease.
- 11.3 The Council does not have an objective to generate additional income from the implementation of the policy, but this may happen over time as a result of implementing a consistent approach to setting rent levels as part of any lease negotiation.

12 LEGAL IMPLICATIONS

- 12.1 Local authorities have the power to dispose of land, including leases, 'for the best consideration reasonably obtainable' under section 123 of the Local Government Act 1972. Under the General Disposal Consent (England) 2003, disposal can be at less than best consideration provided it can be evidenced that the disposal helps to achieve the 'promotion or improvement' of 'economic well-being', 'social well-being' and 'environmental well-being' for the borough and its residents.
- 12.2 This policy will comply with the legislation and allow the Council to assess each application in a fair and transparent manner support through evidence provided by the potential tenant.

13 EQUALITY AND DIVERSITY IMPLICATIONS

- 13.1 Equality Impact Assessments will be completed on a case-by-case basis regarding any future leases where the policy is applied.



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Background Papers: -

None.

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Voluntary and Community Sector (VCS) Buildings and Land Leasing Policy

DRAFT

1 Purpose of the Voluntary and Community Sector (VCS) Buildings and Land Leasing Policy

- 1.1 This policy will ensure that Council owned assets (“Property”) occupied by VCS organisations are fully maximised for the benefit of residents and that in so doing supports the Council’s priorities.
- 1.2 This policy will establish a fair, open, consistent, and transparent approach to the setting and agreement of lease arrangements and rent levels for all VCS organisations occupying Council owned Property.
- 1.3 This will be achieved through a fair, consistent, and transparent approach to:
 - **Heads of terms** – the terms of occupation offered to VCS organisations as set Appendix 1;
 - **Valuation and Rent Negotiation** – setting rents for properties occupied by VCS organisations;
 - **Rent Subsidy application** – the application of rent discounts for all VCS organisations that meet the eligibility and criteria of the social value discount framework; and
 - **Premises allocation** – the allocation of premises to VCS organisations.

2 Policy Scope

- 2.1 An organisation’s status as a VCS organisation will be determined by its ‘not for personal profit status’ and will include different types of incorporated and unincorporated organisations.
- 2.2 This policy is aligned with the Council’s Acquisition and Disposal Policy (2024) and should be read in conjunction with that policy.

3 Policy Features

- 3.1 There are four key elements of this policy which will determine the allocation and overall terms of occupancy for VCS organisations in the Council’s premises:
 - An open and transparent allocations process;
 - A valuation and rent negotiation process;
 - A rent subsidy application process; and
 - A lease through draft Heads of Terms (Appendix 1).

4 Property to which this policy applies

- 4.1 This policy may apply to any Council property where full market rent is not reasonably achievable and is subject to consideration by the Asset Review Board.
- 4.2 The decision to grant a lease will be taken through the relevant corporate governance processes in line with the Council’s Acquisition and Disposal Policy (2024).

5 Open and Transparent Allocation Process

- 5.1 Property will be allocated to VCS organisations through an open, transparent, and competitive process, enabling organisations in the VCS sector to express an interest in occupying the Property. Property will be advertised through the Council's website and/or appropriate communications channels..
- 5.2 The Allocation Process will consider the desired social value considerations for the Property, which will be established with key stakeholders and the Asset Review Board. This will be based on an assessment that may include existing provision, local and Borough-wide need, the Council's intentions, and the nature of the relevant Property.
- 5.3 Expressions of interest will only be considered from VCS organisations which are delivering the majority of their services (a minimum of 60% measured by planned spend in the next three years) within the Borough.
- 5.4 Any expression of interest in a site made by a VCS organisation will be assessed by the Asset Review Board through the application of the following criteria:
 - a) the ability of the VCS organisation to deliver the desired social value and improve outcomes of residents;
 - b) the fit between the VCS organisation's activities and the premises;
 - c) the ability of the VCS organisation to manage the premises and condition of the lease;
 - d) the VCS organisation's finances and ability to pay the discounted rent; and
 - e) any other criteria which the Council reasonably considers to be relevant.
- 5.5 However, in exceptional circumstances, the Council reserves the right to amend this Allocation Process for the purposes of good estate management, subject always to the oversight of the Asset Review Board. This could include, but not limited to emergency response, managing difficult or complex sites or for short term lets of a meanwhile use nature.

6 Valuations and Rent Negotiations Process

- 6.1 Any Property to be let pursuant to this policy will be valued for a market rent.
- 6.2 The market rent for each Property will be established through a valuation undertaken by a suitably qualified professional within the Council. The rental valuation will be calculated by a like benchmarking exercise against similar premises, used for similar condition, in similar locations, let on similar terms.
- 6.3 The rents will be proposed to the VCS organisation as part of the lease negotiation process. The VCS organisation will be able to present evidence of the rent charges for other comparable buildings to negotiate a different rental valuation. For rent reviews where reconciliation has not been established, third-party valuations will be utilised.
- 6.4 Improvements to the property made by the VCS organisation will not be

included in the market rental valuation on commencement of the lease but will be considered at the first rent review or upon renegotiation of the lease.

7 Rent Subsidy Application Process

- 7.1 A discount of up to 50% of the agreed market rent will be provided to VCS organisations that meet the criteria as set out in Appendix 3 below.
- 7.2 In exceptional circumstances, where the awarded discount would still result in the VCS organisation having a financially unviable service, an additional discount may be considered by the Director of Commercial & Assets in consultation with the S151 Officer. Such consideration will only be made where there is no other interested party in the property and will be contingent on the VCS organisation reasonably demonstrating what the shortfall would be.
- 7.3 Any such additional discount will, in principle, be limited to the demonstrated shortfall and be time limited and shall be solely in the discretion of the Council.
- 7.4 The market rent and any discount will be written into the lease agreement with the social value criteria and service level agreement as a schedule of the lease.
- 7.5 Should the VCS organisation cease to meet the qualifying social value criteria, then, the discount may be amended or rescinded, based on the notice period of the lease and the VCS organisation may continue occupation at the reserved market rent, subject to any other decision which the Council may make.
- 7.6 Organisations that do not meet the criteria out in Appendix 3 will not be eligible for the rent subsidy and the market rent will be due.

Transitional arrangements

- 7.7 It may be necessary to support VCS organisations while this policy is introduced. To this end, the Council retains the right to use reasonable endeavours, including (but not limited to) phasing in rents or providing financial support in consultation with the Director of Commercial & Assets and S151 Officer, or in-kind support such as training or advice to VCS organisations to enable their transition to the conditions of this policy. These mitigations will be informed by an assessment of affordability and capacity.

8 Appeals and Dispute Resolution

- 8.1 Without prejudice to any existing rights of a VCS organisation, complaints in relation to this policy will be managed in line with the Council's corporate complaints process.
- 8.2 Without prejudice to the usual binding third party mechanism for rent review determination in the lease, VCS organisations may request in writing a review of valuations, discounts, and other matters related to this policy, to ensure that this policy is implemented in a fair, open, and transparent way.

8.3 At no point should this process be used to frustrate the settlement of disputes and will not replace any legal rights that the VCS organisation may have.

9 Review of Policy

9.1 This policy will be reviewed annually by the Asset Review Board and submitted to Cabinet for approval.

Appendix 1

SUBJECT TO CONTRACT

Draft Heads of Terms

A	LANDLORD:	Castle Point Borough Council
B	TENANT:	Name of business/person
C	TERM	
D	DEMISE	Building and/or land address and detail
E	RENT	
F	RENT REVIEW:	
G	RENT DEPOSIT	[tenant specific]

H	BREAK OPTION	Landlord can determine the lease at any time on 3 months' notice if the community group is not operating in line with the desired use or has ceased operation.
I	SECURITY OF TENURE:	Contracted outside the Security of Tenure provisions contained in the Landlord and Tenant Act 1954 part II
J	OUTGOINGS:	All utilities and business rates for the premises
K	REPAIRS:	External and internal repairs (FRI terms) typically the responsibility of the lessee. Any demised outdoor space to be maintained by the lessee.
L	USE:	Defined as per community benefit
M	ALIENATION	No subletting or assigning authorised
N	ALTERATIONS:	None authorised without written permission from Castle Point Borough Council
O	INSURANCE:	Arranged by CPBC and recharged annually
P	STATUTORY COMPLIANCE	Arranged by CPBC and recharged per item
R	LEGAL FEES	The Organisation shall pay for the Council's reasonable legal fees and their own legal fees.
T	LANDLORD'S SOLICITOR	Borough Solicitor – Castle Point Borough Council
U	TENANT'S AGENT	
V	TENANT'S SOLICITOR	
W	Offer Subject To	[ARB approval] [Cabinet approval]

Appendix 2

Rent Subsidy Application

<u>Property Details</u>	
1. Property Name & Address	
<u>Community Group Details</u>	
2. Applicant Details (Including charity No., main contact etc)	
3. Describe proposed use of the building	
4. Describe governance arrangements	
5. Supporting Evidence submitted attachments: <ul style="list-style-type: none">• Business plan• Copies of audited accounts (3 years for established or projected 3-year cash flow)	
<u>Financial Resources</u>	
6. Does the organisation have sufficient core funding to cover the market rent?	
7. Describe sustainability of future revenue income stream for the business	
8. How does the organisation support the Council in meeting its corporate priorities and objectives?	
9. How does the organisation support the borough as a whole in addition to question 11 above?	
10. Specifically in relation to the asset, why is this property the most suitable for your organisation?	

Appendix 3

Rent Subsidy Scoring Matrix

(A) Financial Resources

	Weighting	Justification	Score
Sustainability of future revenue income stream for the VCS organisation	Strong evidence – up to 10 points 3-year projections provided show income exceeding on-going costs.		
	Good evidence – up to 7.5 points 3 year projections show good evidence of revenue meeting on-going costs.		
	Some evidence – up to 5 points Limited evidence of revenue meeting on-going costs.		
	Little evidence – up to 2.5 points On-going costs exceed substantiated revenue levels.		
	No evidence – 0 No evidence presented.		

8.3.1 Contribution towards Castle Point Borough Council Priorities

	Weighting	Justification	Score
How does the VCS organisation support the Council in meeting its corporate priorities and objectives?	Strong Evidence - up to 20 points Clear and demonstrable evidence on how the VCS organisation helps the Council to meet all of its priorities		
	High Evidence – up to 15 points Clear and demonstrable evidence on how the VCS organisation helps the Council to meet at least one of its priorities		

	Weighting	Justification	Score
	<p>Some Evidence – up to 10 points Evidence shows to some extent how the VCS organisation helps the Council to meet at least one of its priorities</p>		
	<p>Little Evidence – up to 2.5 points Limited information on how the VCS organisation helps the Council meet at least one of its priorities</p>		
	<p>No Evidence - 0 points No evidence provided on how the organisation helps the Council meet any of its priorities</p>		

(B) Benefit to the Borough as a whole

	Weighting	Justification	Score
How does the VCS organisation support the Borough as a whole?	<p>Strong Evidence – up to 15 points Clear and demonstrable evidence on how the VCS organisation tangibly benefits the Borough.</p>		
	<p>High Evidence – up to 10 points Shows how the VCS organisation tangibly benefits the Borough but could be better evidenced.</p>		
	<p>Some Evidence – up to 5 points Shows to some extent how the VCS organisation tangibly benefits the Borough, but could be better evidenced.</p>		
	<p>Little Evidence – up to 2.5 points Limited information on how the VCS organisation tangibly benefits the Borough.</p>		

	Weighting	Justification	Score
	No Evidence - 0 points No evidence provided on how the VCS organisation tangibly benefits the Borough.		

(C) Suitability of the Property for the VCS organisation

	Weighting	Justification	Score
Explain why this Property is the most suitable for the VCS organisation	Very significant positive impact – up to 20 points Proposal shows clear and demonstrable high positive impact on the Council and Borough.		
	Notable positive impact – up to 15 points Proposal shows clearly a notable to high positive impact on the Council and Borough.		
	Some positive impact – up to 10 points Proposal shows there would be some positive impact on the Council and Borough.		
	Little positive impact – up to 5 points Proposal shows there would be limited positive impact on the Council and Borough .		
	No positive impact - 0 points Proposal shows no evidence of positive impact on either the Council or the Borough.		

Scoring Matrix

POINTS	RENT PAYABLE
50 and above	50%
40 to 49	60%
30 to 39	70%
20 to 29	80%
10 to 19	90%
0 to 9	100%