

Communities and Neighbourhoods Policy Development and Review Sub- Committee

11.00 a.m., Tuesday, 11 February 2014

Policy: Leasing Council Land and Buildings at less than Market Value

Item number	5.2
Report number	
Wards	All

Links

Coalition pledges	P23, P28, P33
Council outcomes	CO23, CO26
Single Outcome Agreement	SO1

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Executive summary

Policy: Leasing Council Land and Buildings at less than Market Value

Summary

The Finance and Budget Committee Policy Development and Review Sub-Committee of 18 December 2012 noted that the Director of Services for Communities would report back to the Sub-Committee on a draft policy for the sale or lease of Council properties at less than market value, the report to include further detailed information on asset transfer and shared leasing.

At that time, it was anticipated that the Scottish Government would be shortly enacting the Community Empowerment and Renewal Bill which had been issued for consultation, which would have informed Council policy on community asset transfers. However, the Bill has been redrafted and renamed the Community Empowerment (Scotland) Bill and has only recently been published for consultation, with responses to be received by 24 January 2014. There is no indication of the timetable for enacting this legislation.

This report is therefore restricted to a policy for the leasing of Council land and buildings at less than market value and which aims at promoting a fair, accountable and transparent process moving forward.

The policy has close links to Council grants to third parties and it was therefore considered appropriate to submit this report to the Communities and Neighbourhoods Policy Development and Review Sub-Committee at the same time as the final recommendations and implementation plan for Third Party Grants.

Recommendations

That Committee:-

- (1) Notes the contents of this report; and
- (2) Notes that a further report will be submitted to the Finance and Resources Committee in April 2014 with a finalised policy when Third Sector engagement has been completed.

Measures of success

Delivery of a clear and transparent written policy that will assist Council officers, Councillors and the Third Sector when considering leases of Council land and buildings at less than market value.

Financial impact

Resources for development of the policy are contained within service area budgets. Implementation of the policy will also be contained within service area budgets, but will require to be phased in over a period of years until all existing lets have been reviewed and brought into line with the policy.

Equalities impact

The development and implementation of the policy may assist the Council to better deliver key equality and rights outcomes, and will be required to meet the public sector equality duties to (i) advance equality of opportunity, (ii) eliminate unlawful discrimination, harassment and victimisation, and (iii) foster good relations. Any proposed changes will be subject to equality and rights impact assessment, and due regard will be paid to the recommendations arising from this assessment.

Sustainability impact

The impacts of this report in relation to the three elements of the Climate Change (Scotland) Act 2009 Public Bodies Duties have been considered, and the outcomes are summarised below.

The policy will assist in the delivery of the city's sustainable development objectives, in particular, social and economic wellbeing and an efficient and effectively managed city by requiring those organisations applying for Concessionary Lets to show how they will meet the same objectives.

Consultation and engagement

A draft policy for consultation was issued to Council Services during 2012 and it was proposed to consult with the Third Sector thereafter. However, some of the comments raised concerns that the policy might appear to be driven by a property saving agenda and it was decided that the policy needed to be developed with the Third Sector initially and the revised policy issued to Services for consultation.

ThinkSpace events are to be arranged by Edinburgh Voluntary Organisations' Council (EVOC) in January and February 2014 to consult with the Third Sector on the work already carried out by the Council and the way forward.

Background reading / external references

[The Scottish Government's "The Disposal of Land by Local Authorities \(Scotland\) Regulations 2010"](#)

[Report on 29 March 2011 to the Finance & Resources Committee on the "Disposal of Land and Buildings at less than Market Value"](#)

[Report on 18 December 2012 to the Policy Development and Review Sub-Committee of the Finance & Budget Committee on the "Community Benefit Associated with Concessionary Leases of Property"](#)

[Report on 24 September 2013 to the Communities and Neighbourhoods Committee on the "Review of Council Grants to Third Parties 2013-14: Update Report"](#)

[Report on 28 June 2013 to the Communities and Neighbourhoods Committee on the "Review of Council Grants to Third Parties 2013-14: Update"](#)

Policy: Leasing Council Land and Buildings at less than Market Value

1. Background

- 1.1 On 26 October 2010, the Finance and Resources Committee approved a motion requesting a “fair and transparent written policy” which supported the sale or lease of land and buildings at less than market value where activities taking place in or at that property were aligned with the Council’s own strategic policy objectives.
- 1.2 On 29 March 2011, the Finance and Resources Committee considered a report on the Disposal of Land and Buildings at less than Market Value and approved the following recommendations:-
1. To note the introduction of “The Disposal of Land by Local Authorities (Scotland) Regulations 2010” with effect from 1 June 2010.
 2. To agree that, when dealing with new leases of land, buildings and open space to charities or not-for-profit organisations which provided community benefits, the Council should adopt a policy of no new concessionary lets.
 3. To agree that the only exceptions to the policy of no new concessionary lets would be:
 - Where a sponsoring Council Service agreed to meet the difference between market rent and the rent the tenant could afford.
 - Where the Finance and Resources Committee or full Council approved a lease at less than market rent.
 4. To agree that when the disposal of land falling within the regulations was being considered at less than the best consideration that could reasonably be obtained, then this decision should be taken by the Finance and Resources Committee on the basis of the analysis undertaken in accordance with the requirements of the “Disposal of Land by Local Authorities (Scotland) Regulations 2010”.
 5. To recommend that the Council amend the Scheme of Delegation to allow the Director of City Development to make decisions on land disposals at less than best consideration and falling outwith the regulations where the market value was £10,000 or less, or where the marginal difference between the best consideration price and the proposed price was 25% or less, subject to a maximum marginal difference of £10,000.

- 6 To reiterate the instruction in paragraph 1.1 of the report by the Director of City Development, that a “fair and transparent written policy” be produced, and that this policy should take into account the community benefits of concessionary lets.
 - 7 To ask the Director of City Development to submit a further report, after consultation with the Third Sector, on the impact on future lets and on current lets when they fell due for renewal, either at termination or at a break point.
- 1.3 The Finance and Budget Committee Policy Development and Review Sub-Committee of 18 December 2012 noted that the Director of Services for Communities would report back to the Sub-Committee on a draft policy for the sale or lease of Council properties at less than market value. At that time it was anticipated that the Scottish Government would be shortly enacting the Community Empowerment and Renewal Bill which had been issued for consultation, which would have informed Council policy on community asset transfers. However, the Bill has been redrafted as the Community Empowerment (Scotland) Bill and has only recently been published for consultation, with responses to be received by 24 January 2014. There is no indication of the timetable for enacting this legislation.
 - 1.4 This report is therefore restricted to a policy for the leasing of Council land and buildings at less than market value.
 - 1.5 Following a deputation to the Finance and Resources Committee on 16 January 2014, on the impact of concessionary lets on community growing initiatives, the Committee agreed to give delegated authority to the Director of Services for Communities to offer support to community garden schemes across the city by applying appropriate letting mechanisms where it constituted best value, until the review of the concessionary lets policy was concluded and a report brought back to the Finance and Resources Committee in April 2014.

2. Main report

- 2.1 The following is a broad overview of the main types of tenants and properties which may be affected by a Concessionary Lets Policy:

Community Lets: Youth Centres, Youth Organisations such as Scouts and Guides, Youth Organisations with links to the Armed Forces such as Cadets and ATCs, Children’s Play Groups, Local History Groups, Model Clubs, Community Councils, Day Centres and Advice Centres and community gardens/food growing groups.

Sports Club Lets: Bowling and Croquet Clubs, Tennis Clubs, Sports Pavilions and Changing Rooms (mostly football and cricket clubs), Clubrooms (Golf, Rugby and Sailing) (Note: Some Clubrooms have licensed bars).

Other Concessionary Lets: Art Galleries, Arts Organisations, National Charities and Trusts and Gorgie City Farm.

2.2 The main organisations which are, or have the future potential to be, in receipt of concessionary lets generally fall into one of the following categories:

- Receive a Third Party Grant and are charged a concessionary rent.
- Receive a Third Party Grant and are charged a market rent.
- Receive no Third Party Grant and are charged a concessionary rent.
- Receive no Third Party Grant and are charged a market rent.

2.3 Currently, any rent of Council property at below market value is, in effect, a grant subsidy and should be included in the Third Party Grant quantum consideration. In order to ensure fairness and transparency these grants need to be identified in order to show the full level of subsidy by the Council. For grant supported organisations this could be reflected in the grant funding agreement. Where an organisation is not in receipt of grant funding, the Director of Corporate Governance may have to draw up a funding agreement to record the level of rental subsidy.

2.4 It is proposed that under the Concessionary Lets Policy, all organisations are offered leases at market value subject to the following criteria:-

- If the organisation is unable to meet the market rent and it can show that it provides a service which is closely aligned to Council strategic priorities, strategies and commissioning plans and Capital Coalition Pledge commitments, i.e. the same evidence that would be provided for a successful Grant Agreement, the Council will consider providing a grant to meet the difference between the market rent and the amount the organisation can afford to pay and the Council will arrange for the internal transfer of funds between the sponsoring service and the account on which the leased property is held. Any subsidy in this form will be recorded by the Director of Corporate Governance as a notional grant.
- Review of existing concessionary lets will require to be phased over a period of years until all existing lets have been brought into line with the policy.
- Any new concessionary lets will have to be approved by the Economy Committee and then ratified by the Finance and Resources Committee. The intention is to have a consistent and transparent approach to all organisations with the total level of any subsidy recorded in the Council's Grant Budget.

2.5 A process for assessing applications has been drafted but the administration of the proposals and the extent of information from an applicant at each stage of the application process requires refinement during engagement with the Third

Sector. This will avoid an overly complicated procedure disproportionate to the level of achievable rent.

- 2.6 It is considered that by dividing the application process into stages, the expense incurred by a Third Sector organisation is minimised to obtaining a decision from the Council. However, the amount of time and potential expenditure will be affected by the complexity of each proposal. It is anticipated that, relevant officers in Services for Communities and, where appropriate, other Council Services will work with the Third Sector Organisation to provide guidance and support throughout the process.

3. Recommendations

3.1 That Committee:-

- (1) Notes the contents of this report; and
- (2) Notes that a further report will be submitted to the Finance and Resources Committee in April 2014 with a finalised policy when Third Sector engagement has been completed.

Mark Turley

Director of Service for Communities

Links

Coalition pledges	<p>P23 - Identify unused Council premises to offer on short low-cost lets to small businesses, community groups and other interested parties.</p> <p>P28 - Further strengthen our links with the business community by developing and implementing strategies to promote and protect the economic well being of the city.</p> <p>P33 - Strengthen Neighbourhood Partnerships and further involve local people in decisions on how Council resources are used</p>
Council outcomes	<p>CO23 - Well engaged and well informed – Communities and individuals are empowered and supported to improve local outcomes and foster a sense of community.</p> <p>C029 - The Council engages with stakeholders and works in partnership to improve services and deliver on agreed</p>

objectives.

Single Outcome Agreement Appendices

SO1 - Edinburgh's Economy Delivers increased investment, jobs and opportunities for all.

None