



Voluntary and Community Sector Property Portfolio - Lettings Policy

Key Decision No - FCR S059

**CABINET MEETING DATE
(2021/22)**

14 March 2022

CLASSIFICATION:

Open

WARD(S) AFFECTED

All Wards

CABINET MEMBERS

Mayor Phillip Glanville
Councillor Chris Kennedy - Cabinet Member for Health, Adult Social Care,
Voluntary Sector and Leisure

KEY DECISION

Yes

REASON

Affects two or more wards

GROUP DIRECTOR

Group Director Finance & Corporate Resources: Ian Williams

1. CABINET MEMBER'S INTRODUCTION

- 1.1 I am pleased to introduce this report which sets out the Council's Voluntary and Community Sector (VCS) Lettings Policy. This Policy, which shapes the use of our VCS Property Portfolio, reflects the needs and priorities of Hackney today whilst also providing sufficient flexibility to respond to changing circumstances moving forward. The new policy builds upon the previous policy which was introduced in 2011.
- 1.2 The review of the VCS Property Portfolio and the VCS Lettings Policy, was a commitment of the VCS Strategy 2019-2022 (approved by Cabinet in 2019).
- 1.3 As a Council we are committed to supporting and working in partnership with the voluntary sector. We recognise the key role that our VCS partners play in reaching local communities, providing important services and delivering real benefits for individuals and the wider community.
- 1.4 The VCS Lettings Policy is an important component of the Council's wider response to the voluntary and community sector's need for premises and delivery spaces in Hackney. The key aim of the Policy is to ensure that this portfolio of properties is used to its full potential for the benefit of local communities.
- 1.5 The proposed new VCS Lettings Policy confirms that the Council will continue to make a portfolio of properties available to VCS organisations. Properties will be leased to voluntary sector organisations on favourable terms including discounted rent and support with maintenance and health and safety obligations.
- 1.6 The VCS Strategy highlights the need for change in the way in which local organisations operate and work in partnerships with others. The Lettings Policy aims to encourage more collaborative and shared use of premises through flexible lease terms permitting subletting and hire of space, and by valuing collaborative arrangements when considering lease allocations. This approach, in what is a limited number of properties, will provide greater access to space for more VCS organisations and help enhance the financial sustainability of VCS tenants.
- 1.7 Inequality is a key local issue and over the last two years the pandemic has exacerbated those inequalities and increased pressure on our community. The pandemic has presented both operational and financial challenges as the VCS has worked to adapt services and respond to increased demand for services. During the pandemic, working collaboratively with the Council and other organisations, our VCS tenants have played a key role delivering services such as food distribution, health and wellbeing services, older persons services and advice services.

- 1.8 The VCS is already operating in challenging circumstances which are likely to become more difficult. Recognising this, the new Lettings Policy brings incremental change from the 2011 policy, this will provide continuity and support our VCS tenants to deliver services that are aligned with borough priorities, and which complement statutory services delivered by the public sector.

2. GROUP DIRECTOR'S INTRODUCTION

- 2.1 This Council has a strong financial track record but 11 years of Government cuts and the cost of keeping people safe during the pandemic, much of which has fallen to the Council, have taken their toll on public services. More and more people are turning to councils for support, with less and less money available to help them. In Hackney, our Government grant has shrunk from £310m in 2010 to £170m - a cut of 45%. Per head of population we have seen the biggest funding cut of any London borough at £529.
- 2.2 Nevertheless the Council continues to support and invest in the Voluntary and Community Sector because of the crucial role the sector plays in serving local residents and addressing borough priorities and needs. The Council has again protected the budget for the VCS grants programme, it awarded a discretionary rate relief total of £566,271 in 2019/20 and continues to commission VCS organisations to deliver services.
- 2.3 The Council provides a further subsidy to VCS organisations through the VCS Property Portfolio, by providing properties at low rents and with limited repair and maintenance obligations. The difference between the rent received from the portfolio and the potential market rental value is in excess of £500,000 per year. This does not include some buildings where long term plans are being established, playgrounds and several short term VCS lettings. Under the terms of a standard VCS lease, the Council also covers the costs of statutory health and safety testing and much of the maintenance of the properties.
- 2.4 The VCS Property Portfolio was established along with the Lettings Policy which was approved by Cabinet in March 2011. A key objective in 2011 was to regularise a series of historical arrangements dating back to the 1980s (or earlier) and to standardise the terms on which properties were occupied by VCS tenants.
- 2.5 The 2011 policy has been largely successful in meeting its objectives. VCS organisations now occupy premises on the basis of a current lease, there has been significant capital investment in the VCS portfolio and properties are subject to an effective health and safety regime. The portfolio is occupied by VCS organisations that are making a significant contribution within Hackney. Our tenants include organisations such as East End Citizens Advice Bureau, Hackney Foodbank, Age UK East London, Hackney Caribbean Elderly Organisation, Literacy Pirates, Hackney Marsh Partnership, Beis Chana, Day Mer and Hackney and City MIND.

- 2.6 The Council continues to strengthen its approach to working with the VCS through its VCS Property Portfolio. For example: the letting of 6000 sq ft at Marie Lloyd Centre for services to older residents, carers and disabled people; investing £950,000 in 12-14 Englefield Road prior to letting for use as a new East and Southeast Asian Community Centre; investing over £240,000 in Hackney Caribbean Elderly Organisation's premises to carry out essential repairs and to bring unused spaces back into active use; marketing and letting 243 Lower Clapton Rd adopting an approach designed to attract lease applications from smaller local VCS organisations who impact on key groups within our local communities.
- 2.7 The VCS Property Portfolio and Lettings Policy review has 2 main elements:
- The VCS Lettings Policy (see Appendix 1) is introduced in this report and sets out the Council's arrangements for leasing premises within the VCS Property Portfolio. The Council needs an agreed policy in order to guide the next phase of negotiations with existing tenants on standard VCS Leases expiring in 2022.
 - Work to draw up a 5 year asset management plan is also underway. This entails understanding the condition of the premises, future investment requirements, and the costs of and approach to maintenance and health and safety compliance. This will inform the management of the assets over a 5 year period and the associated budget and resource requirements. This aspect of the review is taking place over a longer period, completing in 2022/23.
- 2.8 The new VCS Lettings Policy represents incremental (not wholesale) change from existing arrangements. This approach provides stability in the face of the huge challenges currently faced by the Council and the VCS, whilst also moving forward from the 2011 position of needing to regularise historic arrangements, to a position where the new Policy facilitates enhanced and improved use of these property assets to deliver local benefits.

3. RECOMMENDATIONS

Cabinet is recommended to :-

3.1 Approve the Voluntary and Community Sector Property Portfolio - Lettings Policy as set out at Appendix 1.

3.2 Agree to introduce and apply the Policy from April 2022.

4. REASONS FOR DECISION

- 4.1 The VCS Property Portfolio and the associated VCS Lettings Policy were established in March 2011. The VCS Lettings Policy forms part of the Council's wider strategy and work to support a strong accommodation offer for VCS organisations in Hackney.

- 4.2 The VCS Strategy 2019 – 2022 set out a commitment to review and update the lettings policy in order to maximise the use of the property portfolio. The 10 year old policy needs to be updated to ensure that it reflects the needs of the borough today.
- 4.3 The VCS Property Portfolio comprises a limited number of premises (46 currently) and the new VCS Lettings Policy should be seen in the context of wider work that promotes the availability of delivery space for the VCS. The Council takes a strategic approach to affecting or influencing the availability of property assets for use by VCS organisations. Within the Council this approach encompasses working collaboratively across departments that manage assets, set relevant policies and who are enablers, for example; Property Services, Community Halls Service, Housing, Education and Area Regeneration.

The VCS Portfolio

- 4.4 The Voluntary and Community Sector (VCS) Property Portfolio supports VCS organisations to deliver services by providing suitable premises on favourable lease terms, including an affordable level of rent (currently £4 per sq. ft). The Portfolio is an important part of the Council's wider response to the VCS's need for premises and delivery spaces.
- 4.5 The VCS Property Portfolio currently consists of 46 individual buildings. 29 of these properties will be occupied on the basis of a standard VCS Lease; a standard form of lease, generally of up to 5 years in length, under which the tenant pays a discounted rent and the Council retains responsibility for elements of maintenance and statutory health and safety testing of services. The primary focus of the VCS Letting Policy is on those properties subject to a standard VCS Lease. Other properties are either occupied on the basis of a long lease or a shorter lease pending investment in the site, or upcoming development.
- 4.6 The portfolio was established by Cabinet in March 2011, comprising properties within the Council's Commercial Property Portfolio which were occupied by VCS organisations at that time. Although there has been some movement of properties into and out of the VCS portfolio since 2011, and some tenant changes, the majority of properties remain in the portfolio.
- 4.7 The provision of the Portfolio is a form of subsidy to the VCS. The premises are not let at commercial market rates and there are additional maintenance and asset management costs associated with VCS lettings. This limits the Council's ability to increase the overall number of properties within the Portfolio.
- 4.8 New properties that are identified as suitable may be added to the Portfolio from time to time but, equally, properties that are no longer fit for purpose or viable as VCS premises may be removed from the portfolio. Asset reviews will be undertaken on a case by case basis before such decisions are made.

Factors to consider will include the condition of the premises and the cost of repairing and maintaining it; its commercial or development value and potential; and its operational suitability for VCS organisations.

The VCS Lettings Policy

- 4.9 The VCS Lettings Policy (see Appendix 1) sets out the Council's arrangements for leasing the premises within the VCS Property Portfolio. The Policy is applicable to tenants offered on 'standard VCS Lease terms', this covers over half of the properties in the VCS portfolio, other properties are largely occupied on the basis of long term leases agreed prior to 2011 or alternative arrangements depending on the specific circumstances of the property.
- 4.10 The Policy is now 10 years old and needs to be updated and it is necessary to adopt the new policy now, because the majority of our standard VCS Lease agreements with VCS tenants expire in 2022. The Council therefore needs an agreed approach which will inform lease negotiations with existing tenants and any new tenants this year.
- 4.11 The new Policy represents an incremental change from the 2011 Policy. This recognises the current challenges facing the voluntary sector and the Council and the consequent need for stability and continuity of arrangements for many of our VCS property tenants. The new policy aims to improve the use and management of the VCS properties by making sure that the VCS Lease terms, and supporting processes such as lease applications and allocations, monitoring and reporting, all support the effective use of these assets in order to deliver local benefits.
- 4.12 Building upon the previous policy, the proposed new VCS Lettings Policy addresses the following issues:
- The Policy is clearly set within the context of wider strategic work to support VCS accommodation needs in Hackney.
 - The standard VCS Lease terms have been updated and also provide greater clarity regarding landlord and tenant responsibilities, for example in relation to maintenance and health and safety compliance. Lease terms include provision for rent reviews of the standard discounted VCS rent (currently £4 per square ft.). The standard terms of a VCS Lease are set out in the lettings policy document - appendix 1 of this report.
 - The lease allocations processes (formerly eligibility assessments) have been updated and streamlined and the allocations criteria have been revised to ensure they reflect the needs and priorities for the borough.
 - The Policy will promote and facilitate collaboration and partnerships and more shared use of our VCS premises. Flexibility will be provided through the lease terms so that tenants are able to sublet and to hire sessional space. Partnerships and shared use of premises will be valued when considering VCS Lease applications and allocations.

- New Community Agreements between the Council and the VCS tenant will be introduced for all VCS Leases. These agreements will set out the purpose for which the building will be used and the community benefits to be delivered, they will form the basis of annual reporting and monitoring arrangements and regular communication between the tenant and landlord (the Council).
- The Policy provides clarity on exceptional circumstances in which longer leases (over 5 years) may be considered.

4.13 The new VCS Lettings Policy will operate from April 2022. The oversight and governance arrangements for the implementation of the policy are set out in section 11 of the attached policy document (see Appendix1).

Asset Management

4.14 The Council is implementing a wide-ranging asset review of the VCS Property Portfolio. This work is underway and will continue throughout 2022. The objective is to make sure that properties are well maintained, health and safety compliant and fit for purpose, and that there is an asset management plan in place for each asset (property) and for the portfolio as whole. This asset review will inform the management of the assets over a 5 year period and the associated budget and resourcing requirements, as well as the future use and management of assets beyond the five year period.

4.15 The asset management plan will have a clear pathway for the medium term, covering the 5 year period to 2027, consistent with the expiry date of the majority of new VCS leases agreed under the new lettings policy.

4.16 It is important to note that some properties in the VCS portfolio are challenging to operate and maintain, for example because of the age of the building. The asset management plan will therefore also have regard to the longer term to ensure the portfolio comprises buildings which are suited to the needs of our VCS tenants and viable in terms of the costs of maintenance and repair.

4.17 The review will include building condition surveys across the properties leased on standard VCS terms. This will identify any immediate works required to ensure the building is in good repair and ensure all statutory and health & safety obligations are being met. Furthermore, these reports will assist us in setting a programme of additional works and budgeting for the next 5 years. With respect to existing tenants on VCS lease terms, these surveys will be undertaken prior to agreeing a new lease. 18 VCS tenants hold VCS leases that expire in 2022.

4.18 The asset review will also encompass an assessment of rental values across the portfolio to establish updated benchmarks for potential open-market rents; these figures will be documented in individual VCS leases.

5. DETAILS OF ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

- 5.1 Alternative and more fundamental changes to the approach taken to letting VCS portfolio properties were considered. For example, using larger VCS properties to create 'voluntary sector hubs' with spaces managed, sublet and made available for hire by an overarching management organisation, or options which involve an open application process for all properties leased on standard VCS terms, including those with existing occupants. These types of options would have made very significant demands on the VCS and Council's resources in order to undertake complex consultation and planning and to establish robust business plans, at a time when organisations are experiencing huge challenges. These options would also entail wholesale changes to the lettings policy, the implementation of which would cause significant disruption for tenants and their service users.
- 5.2 Approaches entailing more fundamental change were not considered appropriate in the current circumstances, although they should not be ruled out for consideration in the future. The main reasons for this decision are:
- Existing VCS tenants already deliver key services to residents from established and well known locations. The need for continuity of services has become even more important because of the pandemic.
 - Organisations including the VCS and the Council face significant operational and financial challenges over the next few years and therefore the need for stability is even more pronounced, and the challenges of investing in and implementing new approaches are even greater.
 - Many of the aspirations set out in the VCS strategy can be addressed by the more incremental changes set out in the proposed new Policy document. For example; encouraging partnerships and collaboration through the lease and the allocations processes, making sure that new lettings of larger spaces require curated and inclusive approaches to building use, and ensuring smaller VCS organisations are supported to access space through subletting, sessional hire and through accessible application processes where suitable premises are available.

6. BACKGROUND

6.1. Policy Context

- 6.1.1 The VCS Lettings Policy forms part of the Council's wider strategy and work to support a strong accommodation offer for VCS organisations in Hackney. The Policy and the way that the VCS portfolio is managed will align with the Council's aims, priorities, and principles, the Corporate Plan, and with borough strategies including: *The Hackney Community Strategy 2018 – 2028*; *The Inclusive Economy Strategy 2019-25*, and; *the VCS Strategy 2019 – 2022*.

6.1.2 The review is informed by the local context including the following:

- Inequality is a key issue and therefore the use of VCS premises must address and support equalities, inclusion, and community cohesion objectives. The new lettings policy contains measures which are designed to ensure that groups who are tackling local inequalities are valued and prioritised, when opportunities arise in the VCS portfolio.
- The pandemic has intensified pressures on the VCS, it has increased demand for services and accelerated the need for organisations to adapt the way they reach and serve residents.
- Factors such as the development of new technologies and ongoing financial challenges are all impacting on the way that VCS organisations operate.

6.2. Equality Impact Assessment

6.2.1 An Equalities Impact Assessment has been prepared for the VCS Lettings Policy - the subject of this report.

6.2.2 The Council's support for the VCS through the VCS Property Portfolio is an important element of Hackney's commitment to social inclusion and community cohesion objectives. The VCS Portfolio provides affordable venues for the delivery of services by VCS organisations across the borough.

6.2.3 The portfolio is occupied by a wide range of VCS organisations (see examples at point 2.5 above) and is also utilised by sub tenants and partners who use spaces on a sessional basis. These VCS organisations make a significant contribution to addressing inclusion and equalities objectives in Hackney.

6.2.4 The limited number of properties within the portfolio restricts the number of new VCS letting opportunities that might arise for VCS organisations who would like to secure a VCS Lease, or who would like to sub-let or hire space. However, the new Policy includes provision to widen access to space within the portfolio for more VCS organisations and groups.

- The Policy promotes shared, curated and collaborative use of premises and the tenants' approach to using the buildings in this way will be addressed in the allocations assessment process.
- The Policy's allocations criteria and applications processes stress and value equalities impacts and inclusive approaches - see point 7.3 in Appendix 1.
- The approach to marketing vacant premises will target smaller local VCS organisations when suitable properties are available to let.

6.3. Sustainability

- 6.3.1 The management and maintenance of VCS properties will address and support carbon reduction measures and sustainable operational practices. This will include issues such as energy efficiency, waste management and green travel.
- 6.3.2 The VCS in Hackney plays an important role in the local economy, supporting both individuals and groups and makes a significant contribution to the community and civil life. The continuing provision of the VCS Property Portfolio is part of a package of Council support for the sector which makes a key contribution to promoting and supporting sustainable communities in the borough

6.4. Consultations

- 6.4.1 Extensive engagement informed the VCS Strategy 2019 including a day-long workshop attended by a range of local VCS organisations followed by four open invite focus groups. A series of discussion papers were then developed and a series of five further workshops were held. Five key themes were then incorporated into the strategy, one of which is Property. The property section of the strategy has informed and been the basis of this review of the VCS Property Portfolio and the VCS Lettings Policy.
- 6.4.2 During the course of developing the new Lettings Policy document, consultation meetings have taken place with current tenants occupying VCS properties and with the wider sector via the sector's VCS Leadership Group coordinated by Hackney CVS. The membership of this latter group comprises senior managers of local VCS organisations.

6.5. Risk Assessment

- 6.5.1 Risks arising from the VCS Lettings Policy are linked to its implementation not the approval of the Policy itself. The Policy contains detailed provisions and a framework within which to manage and mitigate risks that may arise.
- 6.5.2 All offers of standard VCS Leases will be subject to an allocations assessment prior to the grant of the lease. Tenants must demonstrate that they; will provide services that will deliver significant benefits to local residents, have a viable business plan for delivering services, and possess the financial and management capacity to operate effectively. Community Agreements will be agreed with all VCS tenants and this will enable monitoring and reporting of building usage and the community impact of the services provided.
- 6.5.3 Rents received under VCS leases will be used to meet the Council's costs in managing and maintaining these properties. The Policy and the associated VCS lease terms provide for the rent to be reviewed to reflect the costs incurred.

- 6.5.4 The Policy and the asset management plan for the portfolio will ensure that buildings within the portfolio are maintained in good repair and that statutory health & safety obligations are being met. The asset management plan will have regard to the longer term to ensure the portfolio comprises buildings which are suited to the needs of our VCS tenants and viable in terms of the costs of maintenance and repair. The Policy includes provision for asset reviews to be undertaken on a case by case basis, and in some circumstances if a property is no longer fit for purpose or viable as VCS premises, it may be removed from the VCS portfolio.
- 6.5.5 The portfolio asset review includes building condition surveys that will be undertaken on all properties leased on standard VCS terms. This will identify any works required to ensure that a building is in good repair and compliant with health & safety requirements. With respect to existing tenants on VCS lease terms, these surveys will be undertaken prior to agreeing a new lease.

7. COMMENTS OF THE GROUP DIRECTOR OF FINANCE AND CORPORATE RESOURCES

- 7.1. This report seeks the approval of a revised lettings policy to the Voluntary and Community Sector (VCS). There are no fundamental changes that would cause additional financial implications as a result of the revised policy.
- 7.2. Instead, this policy will allow for improved accountability and contract monitoring between both parties “the council and the tenant” as it defines clearer financial responsibilities.
- 7.3. The policy will protect the council in the case where rent reviews are necessary. This may be further justified through the completion of the asset review process which may identify that it is not sustainable to continue charging at the current rate for some properties. This policy also proposes the option for a property to either be removed from the VCS portfolio or be disposed of if it is no longer financially viable.

8. VAT Implications on Land & Property Transactions

Not applicable to this report.

9. COMMENTS OF THE DIRECTOR, LEGAL & GOVERNANCE SERVICES

- 9.1 Part 1, Section 2 of the Local Government Act 2002 (“LGA”) provides local authorities with a broad power to do anything it considers likely to achieve the promotion or improvement of the economic, social or environmental well being of the area under their control.
- 9.2 The consolidation of a lettings process specifically aimed at voluntary sector organisations will serve to enhance the promotion of social improvements by ensuring the continued provision of community support and services to the borough.

9.3 The comprehensive formalisation of the lettings process will further benefit the borough by ensuring the Council's position as landowner is protected. The leases must be contracted out of the security of tenure provisions in the Landlord and Tenant Act 1954 to ensure they are terminable on notice at the end of the 10 year term.

APPENDICES

Appendix 1:

Voluntary and Community Sector Property Portfolio - Lettings Policy (Open)

Appendix 2:

Equalities Impact Assessment: Voluntary and Community Sector Property Portfolio - Lettings Policy

BACKGROUND PAPERS

In accordance with The Local Authorities (Executive Arrangements) (Meetings and Access to Information) England Regulations 2012 publication of Background Papers used in the preparation of reports is required

None

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