

Appendix 1

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London Borough of Hackney

**Voluntary and Community Sector Property Portfolio
Lettings Policy**

2022

The logo for the London Borough of Hackney, featuring a white stylized 'H' icon on a dark green rectangular background, followed by the word 'Hackney' in white sans-serif font.

1. Introduction

The Council maintains a property portfolio of up to 50 properties that are leased to local Voluntary and Community Sector (VCS) organisations - the VCS Property Portfolio.

The VCS Lettings Policy sets out the Council's arrangements for leasing the buildings and land within its VCS Property Portfolio. This portfolio of properties supports VCS organisations to provide services to local residents, by providing suitable premises on favourable lease terms, including an affordable level of rent.

This Policy is an important component of the Council's wider response to the voluntary and community sector's need for premises and delivery spaces. It is aligned with other Council strategies and work that supports the effective use of community assets and promotes the availability of space for the use of local Voluntary and Community Sector organisations.

The VCS portfolio comprises a limited number of properties and this is just one way that the Council seeks to address the need for delivery spaces in our diverse communities. The Council also takes a wider strategic approach to community benefits and the use of property assets, aiming to maximise community benefit across all the opportunities that exist in other Council assets (outside of the VCS portfolio) and assets owned by our partners. This will ensure that the VCS portfolio is managed with regard to wider strategic aims and as part of a cross Council approach to supporting VCS accommodation needs.

The VCS Lettings Policy builds upon the previous policy which was first adopted in 2011. The Policy reflects the needs and priorities of Hackney today but is designed with the flexibility to respond to changing circumstances moving forward.

The policy document sets out the aims and key principles of the Policy and describes the wider strategic context within which the Policy operates. The terms of a standard 'VCS Lease' are detailed – including length of leases, rent charges and payments, repairs and maintenance obligations, and health and safety requirements. The Policy describes the processes for lease applications and allocations and outlines circumstances in which the Council may consider the provision of longer-term lease agreements.

The Council will provide supporting guidance notes covering different aspects of the Policy, including the lease applications and allocations processes, and monitoring and reporting arrangements.

2. Strategic context and approach

The Policy is aligned with the Council's aims, priorities, and principles and with its *Corporate Plan*. It also aligns with borough wide strategies including the *Hackney Community Strategy 2018 -2028* and the *VCS Strategy 2019 - 2022*. Throughout its period of use, the Policy will be informed by local strategies and plans.

The VCS Strategy describes the need for change in the way in which the VCS property portfolio is utilised and managed in order to reflect changing needs and circumstances and to ensure that properties are utilised to their full potential.

As this policy is adopted in 2022, we know that factors such as the development of new technologies and ongoing financial challenges are impacting on the way that VCS organisations operate. We also know that inequality is a key issue, and the Policy must support equalities, inclusion, and community cohesion objectives. The need to ensure that local services reach and support residents who face challenging circumstances is ever more important. Added to these existing factors, the Covid-19 pandemic has intensified and accelerated the need for services to adapt the way they reach and serve residents.

VCS organisations are increasingly taking opportunities to work in different ways so that they can sustain services and continue to reach and serve local residents. This includes greater levels of collaboration with partners, more shared use of buildings and increased use of new technologies to deliver services. The Policy provides flexibility through its lease terms, for example, in facilitating the sub-letting and hire of space and facilities in order to; support partnerships, create a more varied service offer, and generate income.

3. The VCS Lettings Policy

This Policy applies to VCS organisations¹ occupying buildings or land within the VCS Property Portfolio; and to VCS organisations seeking premises within the VCS Property Portfolio.

Aim:

The main aim of the VCS Lettings Policy is to ensure that the VCS Property Portfolio is used to its full potential, to support the delivery of services that address the borough's priorities and meet the needs of local people.

Key Principles:

- The Council will continue to make a portfolio of commercial properties available for VCS organisations to lease on favourable terms.
- The Council invests in this property portfolio in order to achieve a 'social return' on this investment, i.e. the delivery of services that benefit the local community and the borough.
- All properties in the VCS Portfolio will be occupied on the basis of a formal lease.
- The Council will operate a lease allocations process for properties that are leased on standard 'VCS Lease' terms in order to ensure that VCS occupiers are aligned with strategic priorities for the borough and meeting local needs.
- Partnerships between VCS organisations are positively encouraged and the Policy supports tenants in working collaboratively with, and offering space to, other VCS organisations.
- Organisations who are granted a VCS Lease will benefit from a discounted rent and support with some aspects of repairs, maintenance and health and safety compliance.
- The Council will endeavour to ensure that properties occupied on the basis of a VCS lease are well-maintained.

¹ For the purposes of this policy, voluntary and community sector organisations are defined as registered charities and other not-for-profit organisations.

- Tenants must fulfil their responsibilities for the overall management of their property and meet their health and safety related responsibilities. The Council will support tenants, as far as it is able to do so, in meeting their obligations.
- Rents received under VCS leases will be used to meet the Council's costs in managing and maintaining these properties. The lease will provide for the rent to be reviewed from time to time to reflect the costs incurred. At such times, the rent review will be based on a transparent analysis of costs.
- The circumstances in which this Policy operates are not static and therefore its implementation will be informed by an up to date and forward-looking understanding of the Borough's priorities and community needs.
- The Council will adopt a balanced approach to ensuring the need for consistency in the way that the Policy is operated, with the need for sufficient flexibility to ensure that lease arrangements can be adjusted to meet particular circumstances.
- The implementation of this Policy and the management of the VCS portfolio will align with management of other Council assets and with other Council policies.

Review:

This Policy will be reviewed and revised as required no later than April 2027.

4. The VCS Lease

Over half of the properties in the VCS property portfolio are leased to VCS organisations on standardised terms - a 'VCS Lease'. A VCS Lease provides valuable benefits for tenants, including the following:

- significantly discounted rent
- support from the landlord (the Council) with regard to specific elements of building repairs and maintenance
- support from the landlord (the Council) with regard to specific elements of Health and Safety measures and compliance

VCS Leases will normally be granted for a period of up to 5 years and will be granted outside of the 1954 Landlord & Tenant Act. The main Heads of Terms of a VCS Lease are attached at Appendix 1.

Only 'not for profit' Voluntary and Community Sector (VCS) organisations are eligible to apply for a VCS Lease on a property in the VCS Property Portfolio. For the purposes of this policy, VCS organisations are defined as registered charities and other not-for-profit organisations.

In order to secure an offer of a VCS Lease organisations must:

- a. Be an eligible 'not for profit' organisation.
- b. Submit a formal application for the lease.
- c. Organisations who are selected for a lease must satisfy the lease allocations criteria (see point 7.3 below) and submit a viable business plan (see point 7.2 below).
- d. A preferred tenant will be subject to pre-lease checks before a formal offer of a VCS Lease is made by the Council (see point 7.4 below).

5. Subletting

The Policy provides flexibility through its VCS lease terms, to facilitate the sub-letting² and hire of space and facilities. This is intended to support partnerships and collaborative approaches. This can help more VCS organisations access space within the VCS property portfolio, has the potential to create a richer and more varied service offer, and can provide opportunities for tenants to generate income in order to sustain operations.

The Council will positively support tenants in working in partnership with and offering space to other VCS organisations. In exceptional circumstances may also be able to lease space to other (non VCS) sub-occupiers provided that they can demonstrate that there is a clear business case for doing so and that the sub-letting is subsidiary to the main use of the building.

In all cases, sub-letting agreements for properties within the VCS Property Portfolio will be subject to Council approval.

6. Availability of VCS lease properties

In any given year, the number of new or vacant VCS portfolio properties available to let on standard VCS Policy Lease terms is limited for the following reasons:

- Only around half of the VCS Portfolio properties are leased on standard VCS Policy Lease terms. The remaining properties are either occupied on the basis of a long lease or a shorter lease pending investment in the site or upcoming development.
- 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.
- 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 using established criteria before such decisions are made.
- Where an existing VCS tenant already occupies a VCS property the Council will generally enter into discussions with that tenant about a new lease on the same property (subject to the lease applications and allocations process set out below).

7. VCS Lease applications and allocations

7.1 Lease applications

The VCS Lease application process aims to ensure that a tenant taking on a VCS Lease for a VCS property:

- will maximise the use of the property, operate services that address priorities for the borough, and deliver significant benefits to local residents.
- has robust and achievable operational and business plans to deliver services from the property.
- has the financial and management capacity to pay the rent and other running costs and to manage and maintain the building effectively.

Applications for a standard VCS Lease for a property in the VCS Portfolio arise either:

² Sub-letting of the whole premises will not be permitted.

- when a VCS portfolio property is vacant and applications to take on a VCS lease for the property have been invited, or,
- when an existing VCS tenant's lease for a VCS property is due to expire and they have been invited to express interest in a new VCS Lease for the same property.

Additional information and guidance on the processes for each of the circumstances above will be provided to applicants.

7.2 Business Plan

All lease applicants will be required to submit a viable business plan for the use of the property. The business plan needs to set out clear and achievable plans showing how the building will be managed and used to deliver services and positive outcomes for residents. A business plan template and guidance notes will be made available to all applicants.

7.3 Lease Allocations Criteria

All organisations applying for a Standard VCS Lease will be required to demonstrate that they meet the *Lease Allocations Criteria* listed below. This information will be gathered via the application process which includes the submission of a business plan (see above) along with an application form and subsequent pre-lease assessment (see 7.4 below).

Lease Allocations Criteria:

- I. Demonstrate that services address local needs and priorities and align with ways of working as set out in the Council's Corporate Plan and the Voluntary and Community Sector Strategy 2019-2022.
- II. Set out why the building is required and show how it is suitable for the organisation and the delivery of the services described.
- III. Demonstrate a successful track record of managing and delivering services that have impacted positively on your service users and on the local community.
- IV. Show how you proactively promote equality, inclusion and diversity through your approach to governance, management and delivery of services.
- V. Evidence of a strong commitment to partnership working, and show how collaboration and partnerships will enhance the scope and quality of services.
- VI. Show that the organisation operates sound governance and management practices and set out a viable financial plan for the operation of the building and services.

7.4 Pre-lease checks and assessment

Pre-lease checks and assessments are undertaken following the application process and when the preferred tenant has been selected. This stage of the process is designed to review documents, policies and evidence submitted in support of the tenant's lease application.

8. Community Agreements and monitoring and reporting

All tenants on VCS Leases will be required to enter into a Community Agreement. VCS Leases are allocated and agreed on the basis that the tenant will deliver services that benefit the local community and address local priorities and needs. The initial information for the

Community Agreement will be collected as part of the application and allocation processes. The finalised agreement will be appended to the lease granted for the property.

The agreement will summarise how the premises will be used and managed and set out the services and benefits that will be delivered to local residents. These commitments are subject to annual monitoring and reporting arrangements. Tenants will be required to keep records throughout the year to record the services and benefits delivered to the local community.

The purpose of the monitoring and reporting processes is to ensure that the organisation taking on the lease; makes full use of the property, delivers services that address borough priorities and community needs, and achieves positive outcomes and benefits for service users.

There will be a mixture of quantitative and qualitative measures to help us determine how far the service is able to deliver the agreed community benefits. Continuous learning and improvement should be integral to the organisation's approach , with a focus on learning what matters to residents and communities and adapting to meet emergent needs.

The measures may differ for each organisation but will include these core aspects.

- User stories
- Access measures
- Utilisation of the building
- Partnerships and collaboration

Monitoring will be a mixture of:

- Observation of services and talking to customers to help understand their experience
- Conversations
- Self evaluation
- Financial report

There will be an annual meeting with more regular meetings for new lettings, in order to share learning, and address emerging issues. There will also be communication outside of these meetings when needed so urgent issues or risks are dealt with straight away.

Communications: The Community Agreement also will set out communication protocols and arrangements so that the Council and VCS tenant can communicate the achievements and community benefits delivered through this Policy.

The 'VCS rent discount' along with the other Council support that is provided through a standard VCS lease is of financial value and benefits the VCS tenant. This information will be used in communications to acknowledge the value and nature of the support that the Council provides through its VCS Property Portfolio.

9. Provision of longer leases for VCS organisations

VCS Leases will normally be granted for a period of up to 5 years. However, there are circumstances in which the Council will consider the grant of longer leases for properties in the VCS Portfolio.

The Council will consider proposals from VCS organisations who wish to secure a longer VCS lease if:

- A longer lease is required in order to satisfy conditions set by a funder or investor so that the VCS tenant can secure significant investment in the asset (the property).
- The planned investment is appropriate to the site and location and will result in significantly enhanced services and benefits for the local community.

Before a lease of 7 years or more can be granted on a council owned asset on favourable VCS terms the Council must also satisfy legislative and policy requirements.

The circumstances in which the Council will consider requests to grant a longer lease on a property in the VCS portfolio, and the process for submitting, considering and granting such requests will be provided to interested parties.

10. Property / Asset management

For tenants with standard VCS Lease terms the landlord (The Council) will be responsible for maintaining the structure and fabric of the building and ongoing external repairs on properties leased on standard VCS terms. In addition the landlord is responsible for maintaining and repairing electrical, gas and mechanical installations and legionella testing for water services. The landlord will also be responsible for producing an Asbestos Management Plan and implementing necessary works

The tenant (VCS organisation) is responsible for minor and internal repairs, decoration and all fit-out works.

The tenant is responsible for complying with the Health & Safety at Work Act 1974 and creating an appropriate policy and risk assessments. The tenant is responsible for ensuring all Health and Safety requirements are met in respect of their specific use of the building and will be required to prepare and publish a Health and Safety Policy setting out the arrangements for the management and operation of the building. The tenant must also commission and maintain an up to date Fire Risk Assessment.

11. Governance

The operation and implementation of this Policy will be overseen by the Council's VCS Officer Board. The Board will generally be chaired by the Director of Strategic Property Services and attended by officers from Property Services, Policy and Strategic Delivery Partnerships and Area Regeneration.

Where required, officers will seek approval and decisions from Council Members through the Council's Cabinet and Committees. The Mayor and relevant portfolio holders will be briefed on the operation of this Policy at regular VCS Property meetings throughout the year.

With respect to applications for new VCS Leases, an Assessment Panel will make recommendations to the Council's VCS Board for the grant of a new VCS Lease based on the application and allocations process set out in the VCS Lettings Policy. The Assessment Panel will include a voluntary sector representative nominated by Hackney CVS. Hackney CVS is the umbrella organisation for VCS organisations in the Borough.

VCS Letting Policy Appendix

Standard VCS Lease – Heads of Terms (DRAFT)

MAIN HEADS OF TERMS	PROPOSALS FOR ALL NEW LEASES GRANTED TO VOLUNTARY SECTOR ORGANISATIONS
Type of Agreement	A standard Voluntary and Community Sector (VCS) Policy Lease of Council premises to VCS organisations.
Eligibility	Only not-for-profit and incorporated VCS organisations are eligible to apply for a VCS Policy Lease on a property in the VCS Property Portfolio. VCS organisations are defined as registered charities and other not-for-profit organisations.
Allocations Criteria	<p>All VCS Policy Leases are subject to an application and allocations process. VCS applicants must be eligible organisations and demonstrate that they meet the allocations criteria set out below:</p> <ol style="list-style-type: none">1. Demonstrate that services address local needs and priorities and align with ways of working as set out in the Council's Corporate Plan and the Voluntary and Community Sector Strategy 2019-2022.2. Set out why the building is required and show how it is suitable for the organisation and the delivery of the services described.3. Demonstrate a successful track record of managing and delivering services that have impacted positively on your service users and on the local community.4. Show how you proactively promote equality, inclusion and diversity through your approach to governance, management and delivery of services.5. Evidence of a strong commitment to partnership working, and show how collaboration and partnerships will enhance the scope and quality of services.6. Show that the organisation operates sound governance and management practices and set out a viable financial plan for the operation of the building and services.

<p>Community Agreements</p>	<p>VCS Leases are allocated and agreed on the basis that the tenant will deliver services that benefit the local community and address local priorities and needs.</p> <p>All tenants on VCS Leases will be required to enter into a Community Agreement with the Council.</p>
<p>Annual Reviews</p>	<p>Annual Review meetings will take place every year between Council officers and the VCS Tenant. The meeting will review the Annual Monitoring Report submitted by the tenant and will also include discussions on the condition of the building; repairs and maintenance schedules.</p>
<p>Lease Length</p>	<p>Leases will normally be granted for a period of 5 years and will be granted outside of the Landlord & Tenant 1954 Act.</p> <p>Longer leases may be required in exceptional cases. The circumstances in which the Council will consider the grant of an extended VCS Policy Lease is set out in the VCS in the full VCVS Lettings Policy document.</p>
<p>Renewal</p>	<p>The Council will contact the VCS Tenant a minimum of six months before their lease is due to expire. Organisations seeking to renew their lease will be required to submit a new lease application in order to demonstrate that they meet the lease allocations criteria. Decisions on renewal will also be informed by the information arising from the Annual Monitoring Report and Annual Review meetings.</p>
<p>Rent Level</p>	<p>Rents will be charged at the commercial rate and discounted to a “Sustainable Rent” for eligible organisations that meet the allocations criteria outlined in the VCS Lettings Policy.</p> <p>Rents will be paid in advance on a monthly basis, via a direct debit instruction. At the start of the lease agreement, tenants will be required to pay a deposit of one months rent in advance.</p> <p>Collection of tenant rent is vital to ensure the success of this Policy and Property Services have a strict collection policy and provision for rent collections within this portfolio.</p>
<p>Rent Reviews</p>	<p>Rent review on the third year anniversary of the commencement of the lease.</p>

<p>Repairs, testing and inspections</p>	<p>The landlord is responsible for maintaining the structure and fabric of the building and ongoing external repairs.</p> <p>The landlord is responsible for maintaining and repairing electrical, gas and mechanical installations and legionella testing for water services. Copies of the reports will be provided to the tenants to inform their risk assessments. The landlord is responsible for producing an Asbestos Management Plan and implementing necessary works</p> <p>The tenant will be responsible for undertaking water flushing on a weekly basis at the property.</p> <p>The tenant is responsible for minor and internal repairs, decoration and all fit-out works.</p> <p>The tenant is responsible for any other maintenance and should notify the landlord at the earliest possible stage of any problems with the building, or if the organisation is unable to fulfil its obligations</p>
<p>Relocation</p>	<p>In order to develop a VCS estate that is fully utilised and in good repair and order, it may be necessary from time to time to relocate VCS tenants to other premises. VCS organisations will be asked to work constructively with the Council to ensure plans for relocation are undertaken effectively, and to mutual benefit.</p>
<p>Health and Safety</p>	<p>The tenant is responsible for complying with the Health & Safety at Work Act 1974 and creating an appropriate policy and risk assessments.</p> <p>The tenant is responsible for ensuring all Health and Safety requirements are met in respect of their specific use of the building.</p> <p>The tenant is responsible for compliance with Statutory Requirements for Tests and Inspections and other statutory responsibilities not mentioned above, including testing of portable appliances and COSHH regulations.</p> <p>The Tenant will be required to prepare and publish a Health and Safety Policy setting out the arrangements for the management and operation of the building.</p>

<p>Fire Safety</p>	<p>The tenant must immediately commission a Fire Risk Assessment (FRA) upon occupation.</p> <p>The tenant will be responsible for implementing recommendations and renewing the FRA annually, although the tenant will need to keep the landlord aware of any actions arising that result in repairs/changes to the system as the Landlord will retain responsibility for any major repairs/ upgrades.</p> <p>The tenant must ensure weekly testing of the fire alarm call points and monthly testing of the emergency lighting is undertaken and logged, along with a monthly check of the fire doors.</p>
<p>Subletting (Alienation)</p>	<p>Assignment or subletting of the whole property is strictly prohibited.</p> <p>Sub-letting to other VCS organisations by the leaseholder is allowed. But organisations will be required to obtain written agreement from the council before a sub-letting arrangement is entered into. The Council's decision on this matter will be final.</p>
<p>Equalities Act – Access Audit</p>	<p>The tenant is responsible for ensuring that they fulfil all requirements of the relevant legislation.</p>
<p>Insurance</p>	<p><u>The Council</u> will be responsible for insuring the fabric of the building.</p> <p><u>The Tenant</u> will be responsible for the cost of other insurances such as public liability, employer's liability, contents and any other appropriate insurance.</p>
<p>Utilities and waste collection</p>	<p>The tenant is to pay all costs associated with utilities and waste collection.</p>
<p>Rates</p>	<p>The tenant is responsible for Business Rates, interested parties to make their own enquiries.</p>
<p>Consents</p>	<p>The tenant is responsible for obtaining any necessary consents/ licences for the use of the premises under the Town and Country Planning Acts or other legislation, and to any alterations under the Building Regulations and Town and Country Planning Acts if such are required, at their own expense.</p>
<p>Statutes</p>	<p>The lessee shall observe at all times all statutes, Byelaws, regulations, rules etc. concerning the use or occupation of the premises, and any conditions attached to any consents to such use.</p>