

# **Swale Borough Council**

## **Voluntary and Community Sector (VCS) Lettings Policy**

### **1. Objective**

- 1.1 To demonstrate consistency and transparency in the relationship between the Council and a Voluntary and Community Sector (VCS) organisation where the Council is providing accommodation/premises to a VCS organisation.

### **2. Definitions**

- 2.1 Voluntary and Community Sector Organisation - A voluntary and community sector organisation is a charitable body or voluntary organisation including not for profit companies.
- 2.2 Commercial accommodation - is office, retail or industrial premises which would normally be occupied and used by commercial occupiers.
- 2.3 Community accommodation – are Council assets where community activities are its primary purpose, e.g., Community Halls and Allotments
- 2.4 Indicative Rent Without Concession (or Market Rent for purpose of this policy) – an estimate of likely rent achievable assuming a demand for the premises from a commercial operator. As demand in reality is limited this is a theoretical value only.

### **3. Purpose and Scope of Policy**

- 3.1 This policy should be read in conjunction with the Council's Disposals Policy, Community Asset Transfer Policy and Swale House Temporary Lettings Policy.
- 3.2 It covers Council owned commercial premises let to VCS organisations for lettings of up to 25 years whether or not on concessionary terms. This is primarily office space in Central House but also includes some retail units, heritage building and community facilities. It may also apply to vacant buildings that the Council has earmarked for disposal but for which there is currently no market interest.
- 3.3 This policy does not apply to those premises that are deemed community assets and where a VCS organisation exists solely to manage that asset. Where a lease has been granted or is requested for a period of 25 years or more, this shall be managed as part of the Community Asset Transfer Policy. Under this policy the term 'community asset transfer' is stated as 'where the Council transfers land or buildings into the ownership or management of a Voluntary and Community Sector (VCS) organisation'.

- 3.5 Neither does this policy apply to VCS organisation wishing to lease space in the Council owned Swale House, which will be covered by the Swale House Temporary Lettings Policy.

#### **4. Lettings (general principles)**

- 4.1 The general principle for all lettings is that a tenancy/lease of premises will be on commercial terms based on current market value.
- 4.2 Where a VCS organisation is unable to support occupying at the full market rent the Council will consider granting a concession where it is considered that the VCS organisation would provide quantifiable benefits to the community and support the Council in delivering its Corporate Priorities.
- 4.3 All new leases will be granted outside the security of tenure provisions of the Landlord and Tenant Act 1954.
- 4.4 This policy will also apply to all organisations that have existing leases with the Council, as these come up for renewal or expire. Any lease being renewed will be subject to review, regardless of historical agreements.
- 4.5 All proposed lease agreements with VCS organisations will be advertised on the Council website for Expressions of Interest to come forward, allowing for all interested parties to make an application to lease the property or part thereof
- 4.6 An Expression of Interest process will not be carried out where:
- the property is already occupied by a VCS organisation; and
  - they have occupied the property for three or more years and have fully complied with the terms of the tenancy/lease;

#### **5. Concessions**

##### **5.1 Principles**

- 5.1.1 A concession will be granted if there is a demonstrable benefit to the community and/or Council by the VCS organisation and a funding gap can also be demonstrated by the organisation.
- 5.1.2 A concession may be refused or limited if it is considered that the financial cost to the Council or the local community outweighs the benefits generated through the concession.
- 5.1.3 A concession may be considered if a VCS organisation already is in receipt of core funding from the Council.
- 5.1.4 A concession will be considered if there is no current demand for the asset and the Council would prefer the asset to be occupied rather than remain empty.

- 5.1.5 Concessions or lettings to Parish/Town Council's, the County Council or other public sector agencies will be considered, providing a community service is being provided and they can meet the principles outlined above.

## **5.2 Concession Application Process**

- 5.2.1 The Council will adopt an open book approach to establish ability to pay for all VCS organisations seeking a concession on rent. Therefore, copies of the last 3 years of audited/certified accounts would be requested, or where not available, financial statements from an appropriate representative. For a new organisation 12 months projected cash flow forecast are required.
- 5.2.2 In order for any concession to be considered it will be necessary for the body concerned to submit a business plan along with financial details as per above.
- 5.2.3 An appraisal will then be carried out by the Council of the financial and non-financial benefits accruing to the Council and Community to determine the level of concession, if any. This will include any impact on equality and diversity issues. This appraisal will be undertaken by the Council's Asset Management Group.
- 5.2.4 If a VCS organisation wishes to appeal a decision made regarding a lease or a concession, this should be submitted in writing to the Director of Regeneration.

## **5.3. Value of concessions**

- 5.3.1 The market rent/indicative rent without concession shall be assessed so that the value of the concession will be explicit.
- 5.3.2 Where a concession is granted on a lease longer than a year, it will be reviewed annually on the anniversary date of that lease. This will not be a review of the rent level for that property which will be specified within the lease. For shorter term leases, the concession level granted will be reviewed as the leases come up for renewal.
- 5.3.3 Where the lease is to a new organisation a review of their business plan and projected cash flow forecast will be carried out after the first 12 months.
- 5.3.4 The level of concession will be tiered based upon the benefits of that VCS organisation to the Council and the Community; and their ability to pay. The maximum concession level to be granted will be 90% of the current market rent value of the property.
- 5.3.5 For existing tenants, should the level of concession granted result in increased rent payments, the Council will work with the organisation to mitigate negative impacts through provision of support.
- 5.3.6 In the case of properties with limited to no commercial value, the Council reserves the right to issue a management agreement for the management of that property of up to 100% concession in rent.

## **6. Repair & Maintenance**

- 6.1 It will normally be a condition of lettings of 7 years and over that the tenant takes full responsibility for repairs and decorations to the premises throughout the term of occupation.
- 6.2 In certain circumstances, particularly for letting of less than 7 years, it may not be appropriate for the tenant to be responsible for major structural repairs. However, in the case of a surplus and vacant building in need of repair, the Council may grant a concession in exchange for the VCS taking responsibility for all repairs and maintenance.

## **7. Service Charges**

- 7.1 Where a VCS organisation is leasing part of a property, they will be responsible for paying their fair share of the normal running costs of the premises based on the proportion of the floor area occupied.
- 7.2 Where a VCS organisation is leasing a whole property, they will be responsible for paying for the entirety of the running costs of the accommodation.
- 7.3 Concessions on service charges are not included within the scope of this policy.

## **8. Business Rates**

- 8.1 Business Rates are payable by the occupier of the premises and should be charged directly to the occupier. Where the premises are occupied by a VCS organisation they may be entitled to claim rates relief. Registered charities and charitable organisations will be entitled to Mandatory Rate Relief and may be entitled for a further 20% 'top-up relief'. Please see the Council Tax and Business Rate Discretionary and Hardship Relief Policy for more details.

## **9. Financial arrangements**

- 9.1 Rent for premises will be payable as agreed as part of the conditions of the lease or license, depending on the value.
- 9.2 Each party will bear their own costs entailed in the setting up of any lease or license and associated concession application.

## **10. Approvals process**

- 10.1 In the case of lettings of less than 7 years, this will be approved under the delegated authority of the Head of Property Services, in consultation with the Head of Finance, the Head of Economy and Community Services and the relevant Cabinet Members.

- 10.2 In the case of lettings where the annual rent is less than £3,000, this will be approved under the delegated authority of the Head of Property Services, in consultation with the Head of Finance, the Head of Economy and Community Services and the relevant Cabinet Members.
- 10.2 For lettings of between 7 and 25 years and where the market rent is £3,000 or over per annum, it will be necessary to seek Cabinet approval.

