

ACCOMMODATION POLICY FOR VOLUNTARY AND COMMUNITY SECTOR ORGANISATIONS

Sutton's Guiding Principles for Managing Property

A variety of commercial and not-for-profit organisations rent and use Council property. The management of such property is underpinned by a set of guiding principles which are relevant for all types of use and which are set out in detail in the Council's Corporate Asset Management Strategy (2010).

The principles that are most relevant for the use of Council accommodation by voluntary and community organisations hold that:

- Arrangements for third-party occupation and use of Council property and for transfer of assets to the voluntary sector and other Council partners will be clearly documented.
- Lease conditions will be sufficiently flexible to allow the Council to make medium and long-term decisions for the re-provisioning of facilities and re-modelling of services.

Sutton's Approach to Community Asset Transfer

The Council owns a range of buildings (including Schools), most of which are used for the delivery of Council functions. A significant proportion is also let to both commercial and not-for-profit organisations.

In the report of the Quirk review (*Community Management and Ownership of Public Assets, 2008*), three main conclusions were made, and all were accepted by Government, that:

- Any sale or transfer of public assets to community ownership and management needs to realise social or community benefits without risking wider public interest concerns and without community purposes becoming overly burdened by operational considerations
- The benefits of community management and ownership of public assets can outweigh the risks and opportunity costs in appropriate circumstances
- There are risks, but they can be minimised

Like other local authorities, Sutton has legal powers that can be used to transfer assets. The transfer of assets can be achieved through various means that involve varying degrees of handover of land and/or buildings. These include¹:

- Licence (e.g. the right to use property on certain terms, but not granting exclusive possession).

¹ RICS (2009). *Local Authority Asset Management Best Practice: 01 - Transfer of Assets to Community Ownership and Management*. London: RICS

- Short-term lease (e.g. less than 7 years).
- Long-term lease (e.g. over 20 years).
- Freehold (e.g. either on a sole basis or through a joint partnership arrangement).

The financial arrangements that can be used for the transfer and which comply with the law include:

- A gift by the authority.
- A discounted sale or lease (i.e. at less than best consideration) that takes account of social value achieved by the community management and ownership.
- An off-market sale, where property is not openly marketed, to enable sole negotiations with a single organisation.

Sutton's approach to Community Asset Transfer has evolved over the years and, where appropriate, it has involved the use of all the means of achieving transfer that are listed above.

The Council considers each case on its merits and utilises the financial arrangement it considers best for the circumstances of each case. It has, in the past, resolved to transfer property as a gift, and utilises off-market sales as necessary. It does not offer discounted leases, choosing instead to provide financial support towards accommodation costs for those organisations that are supported by its Directorates where the organisations are directly contributing to the delivery of corporate priorities. This ensures transparency and removes hidden subsidies in the use of property.

The approach recognises that the Council has a limited stock of buildings and that it has an overriding requirement to ensure that its property asset base is kept under review so that in terms of quantity, fitness for purpose and condition, it is kept aligned with the goals and objectives of the borough.

This approach to asset transfer is based on Sutton's policies for the use of Council accommodation by the voluntary and community sector and the key principles are set out below.

General Policy for Voluntary & Community Sector Accommodation

- Occupation by voluntary sector organisations is to be on the basis of a written agreement (a lease or licence) that sets out legal rights and liabilities of both sides.
- Liability of Trustees who are signatories to the lease is limited to the value of the assets of the organisation.
- Rents will not be subsidised, and will be at open market rates. Funding to support accommodation requirements would be provided through cost

recovery in a number of ways. These could include under service level agreements for core services, through commissioned services or a proportionate amount for the activities delivered under the Strategic Partner Programme. Support may also be provided for VCS organisations using Council accommodation through arrangements that specify services to be provided in lieu of part or all of the rent payable. (For details of the funding arrangements, see **Appendix E** on main page). However, in every instance, occupation will be by way of a written lease or licence and there will be a separate written service agreement or protocol documenting the services to be provided. This ensures financial clarity and avoids giving unaccountable benefits in kind.

- Requests may be agreed at the start of a lease to alter a building to make it more suitable for the voluntary sector tenant's use to a greater extent than it might do for commercial tenants
- Break clauses are to be built into leases, and these can be triggered by the termination of the operational protocols and Service Agreements entered into with the voluntary sector organisation for the provision of the specified service. This protects the voluntary sector body from being tied to a lease where the Council is no longer buying-in the service
- Leases are to be excluded from the provisions of the Landlord and Tenant Act 1954 with regard to security of tenure. This ensures the Council can recover possession, on appropriate reasonable notice if necessary, should it be necessary to engage another voluntary sector body for different service requirements. This compares with the situation when dealing with commercial tenants of normally limiting the means for tenants to give up their leases.

Policy specific to Community Buildings managed by Community Associations

In addition to the general policy set out above, the following terms will apply solely to community buildings that are managed by Community Associations.

- Where the community building is let on a long lease, at or near peppercorn rates - due to historical reasons, or transfer terms between the Council and external freeholders of the land - the community association will retain all income from lettings and will be fully responsible for all repairs and maintenance to the building.
- The community associations will be required to produce a maintenance plan and evidence of maintaining a sinking fund for future maintenance requirements.
- Where the community building is let at market rents, the requirement to meet rent payments will remain in the lease but the rent will be paid by the Council using internal journal transfer. Community associations will, therefore, not be required to make cash payments for their rent. The provision of the financial

support and the linked requirement to run the building as a community facility will be documented in a separate management agreement.

- The community association will retain all income from lettings and will be responsible for all repairs and maintenance to the building. However, single repairs costing £50,000 and over are excluded from the repairing responsibility and will be the responsibility of the Council. This upper limit to be reviewed after the first two years of operation and reviewed every 5 years afterwards.

The buildings that currently qualify under this policy are:

- Hill House, Bishopsford Road, Morden
- Rosehill Community Centre, Rosehill Pavilion, Rosehill Recreation Ground, Rosehill, Sutton
- Elmcroft Community Centre, London Road, North Cheam
- Hillcrest Hall, Fryston Avenue, The Mount, Coulsdon
- Darby & Joan Club, Cooper Crescent, Carshalton

The definition of a Community Association that qualifies under the policy is one that meets the following criteria:

- A community-based, not-for-profit association whose purposes are based on the provision of space in a building for the immediate local community.
- Who manages a Council-owned community building.
- Who manages a building that is open for use by all sectors of the community.
- Who manages a building that is used for the provision of a wide range of community services.

Framework for Managing Accommodation Requirements of VCS Organisations

This policy is to be operated within framework governing the relationship between the Council and Voluntary sector organisations that includes the following key points:

- The RICS (Royal Institution of Chartered Surveyors) General Principles of Good Estate Management are to be followed.
- The central contact point for enquiries is the Asset Management Team who will deal with enquiries concerning current or potential occupancy of Council property.
- Eligibility criteria will apply for new and existing tenants who wish to be covered by this policy. (For details of the eligibility criteria and the application form, see **Appendix F** on main page).
- The principles of the compact between the Council and VCS organisations are to be followed i.e. fair, transparent, be held to account and subject to review.

- A level of property is to be maintained by the Council for use by voluntary and community sector organisations based on a balance of needs and resources.
- A database is to be maintained by the Council of current tenants, unmet premises needs, requests for alternative premises and vacancies.
- A standard lease used as default, but can be tailored to suit each letting.
- The Council will seek to work in partnership with leading groups within the voluntary sector to establish a 'Community hub' for the voluntary and community sector.

More information

Guidance on how to find out about and apply for Council accommodation can be found in **Appendix G** on main page.

Some current available accommodation can be found on the website [here](#).

Charities and non-profit-making organisations can apply for Discretionary or Charitable Rate Relief from their NNDR (business rates) liability. Further information is available on the Council's website [here](#)