

---

**REPORT FOR: CABINET**

---

<b>Date of Meeting:</b>	13 September 2018
<b>Subject:</b>	Leasing Policy for Properties leased to Sports Clubs and Youth and Elderly Persons Organisations
<b>Key Decision:</b>	Yes
<b>Responsible Officer:</b>	Paul Walker, Corporate Director of Community
<b>Portfolio Holder:</b>	Councillor Keith Ferry, Deputy Leader and Portfolio Holder for Regeneration, Planning and Employment
<b>Exempt:</b>	No
<b>Decision subject to Call-in:</b>	Yes
<b>Wards affected:</b>	All
<b>Enclosures:</b>	Appendix 1 – Sports Club Service Level Agreement

## **Section 1 – Summary and Recommendations**

This report sets out a proposed leasing policy for properties leased to Sports Clubs and Youth and Elderly Person Organisations.

**Recommendations:**  
Cabinet is requested to:

1. approve the proposed policy for properties leased to Sports Clubs and Youth and Elderly Persons organisations and,

2. delegate authority to the Corporate Director, Community, following consultation with the Portfolio Holder for Regeneration, Planning and Employment to finalise the individual leasing arrangements and take all actions required to implement the policy.

**Reason: (For recommendations)**

To fulfil the Council's statutory function in relation to the management of its property and assets.

## **Section 2 – Report**

2.1 The Council currently leases property to sports clubs, scouts and voluntary groups, some leases for as long as up to 30 years. This paper proposes that the Council adopts a leasing policy for each user group to ensure a consistent approach between groups. The policy will also have the added benefit of making a difference to families and communities by working with the organisations to develop leisure activities in line with the proposed Service Level Agreement (SLA).

2.2 The majority of the leases are ground leases where the Club has built the pavilion and is leasing the 'ground' from the Council but there are clubs where the tenant is leasing an actual Council constructed pavilion on what is described in property terms as a rack rent.

2.3 In 2006 a policy was implemented, whereby the baseline rent for these properties was taken from a rent review for a ground rent conducted with Harrow Weald Bowls Club in April 2004 and each subsequent rent review for any sports club was undertaken on an RPI adjustment from this rental level. This set the ground rent level for sports clubs and the rent for those that used a Council pavilion was then set at three times this value.

2.4 Leases to sports clubs and Youth and Elderly persons Organisations are governed by the Landlord and Tenant Act 1954 and where the pavilions have been constructed by the tenants the Council is not permitted to seek a rental for pavilion improvements until the second renewal of the lease.

2.5 This has resulted in a myriad of tenancy arrangements, and the Council now have sports clubs paying rent on a mixture of terms, as follows:

- Clubs paying rent for the ground but who will eventually move to paying rent for the pavilion ;
- Clubs who were previously paying rent for the ground and were moved to paying rent for the pavilions but which either by the clubs demonstrating affordability issues, or by showing that they have

leveraged investment into Borough facilities, they have remained on a ground rent only;

- Clubs that were on ground rents but have moved to paying for the pavilions and are currently doing so
- Clubs that are only paying for the pavilion as they have always rented a Council pavilion.

2.6 For properties rented to Youth and Elderly Persons organisations the September 1996 Property Sub-Committee received a report regarding these leases. The report proposed the standardisation of rents to avoid the often protracted and difficult negotiations at lease renewal or rent review stages and to give consistency when dealing with these groups of tenants. This was set at a rate of £1.37 per m<sup>2</sup> of the site area, and a ceiling was set at £400 per annum. The report recommended that the rents be reviewed on a five yearly basis.

2.7 Some of these groups are holding over under leases and they are still paying £400 pa.

2.8 Since the 1996 Committee Report, some of these organisations have been subletting the properties. Although the use of the buildings by other organisations or community groups is to be welcomed and the proposal set out below encourages such arrangements but also reflects the variation in the agreed lease terms where such arrangements exists.

## **Options considered**

2.9 **Do Nothing** – If the Council continues to deal with each case on an individual basis then agreements will take longer to achieve.

2.10 **Charge full market rent** - This may well impose an undue strain on these groups' financial resources resulting in their valuable contribution to the community being lost.

2.11 **Adopt the leasing policy** – This will achieve a consistent approach when dealing with sports clubs lease terms, reward the clubs for being members of the community and encourage greater participation in their activities. This is the option being proposed in this report. For organisations that sublet the Council's property, the policy would ensure lease terms that reflect the now commercial use of the property.

## **Current situation**

2.12 Currently the Council has approached each lease negotiation on an individual basis with the Club or organisation concerned. However, further lease renewals fell due in 2017 where the Council can legally seek to move more clubs to paying rent for the pavilion and in order to provide consistency in approach and rationalise the subletting arrangements in some properties it is proposed to adopt a new policy going forward.

2.13 The Council has had research undertaken to see how neighbouring authorities approach lettings to sports clubs and Youth and Elderly persons organisations. The research has shown that very few Councils grant long leases to sports club, relying on hourly hire agreements for Council owned pavilions. For those that do grant longer leases, the most common approach is to determine the market rent for the property and then apply some form of discount due to the additional benefit that such groups provide. Where an organisation sublets the Council's property some Councils have charged the organisation a rent that is proportional to the rent the organisations receive from the subletting.

## **Why a change is needed**

2.14 There are a number of lease renewals pending and organisations have been corresponding with the Council to request consideration of their specific circumstances.

## **Implications of the Recommendation**

2.15 The proposed policy is that :

2.15.1 Where legislation permits all sports clubs are moved to a rent for the pavilion. Sports clubs occupying property under this regime will then be granted a 50% reduction in the rent subject to the following terms and conditions:

- That all the terms in the lease are being complied with and that there is no rent arrears, and
- That the club enters into a Sports Service Level Agreement with the Council and provide details of its compliance with the Service Level Agreement annually in March to allow the continuation of the discount.

2.16 A draft of the SLA is at Appendix 1 and this will be finalised with the relevant Clubs.

2.17 By adopting the above policy the Council will ensure that all clubs are dealt with on a consistent and fair basis and that recognition is given for the promotion of sport and related leisure activities within the Borough.

2.18 For properties occupied by Youth and Elderly Persons organisations the proposed policy is :

2.18.1 Where a Youth or Elderly Persons organisation is occupying the property for its own use only and are keeping within the terms of the lease, then the rent should remain at the level set in 1996 but subject to an RPI increase from September 1996. Organisations will be offered new leases on these terms and this will be the base rent.

2.18.2 However, where such groups are subletting the properties for commercial uses eg. as nurseries then as well as the rent payable in paragraph 2.19 the rent should reflect this extra income as follows:

- Where the tenancy remains a ground lease, the Council shall require an additional rental payment on top of the base rent so that the total rent paid shall equal one third of the income that the organisation is receiving from the subletting arrangements.
- Where the tenancy is a tenancy of the building then the additional rent payment on top of the base rent shall be such that the rent paid equates to 50% of the rental income from the subletting .Should the subletting cease then the rent payment will revert to base rent or if after a rent review, the RPI increase of this figure.

2.18.3 This approach provides an incentive for the these groups to fully utilise their premises whilst providing an equitable division of the income between the Council & its tenant.

### **Resources, costs**

2.19 There are no additional costs to the Council arising from these recommendations

### **Staffing/workforce**

2.20 The activities required by this report will be undertaken by the Corporate Estates Team.

### **Performance Issues**

2.21 There is a quarterly measurement re rental income collected from corporate properties

## **Environmental Implications**

N/A

## **Data Protection Implications**

N/A

## **Risk Management Implications**

Risk included on Directorate risk register? No

Separate risk register in place? No

## **Procurement Implications**

There are no procurement implications arising from this report.

## **Legal Implications**

Under Section 123 Local Government Act 1972, the Council shall not dispose of land other than by way of short tenancy not exceeding 7 years for less than the best consideration that can reasonably be obtained, unless the consent of the Secretary of State is obtained.

The General Disposal Consent 2003 allows disposal for less than best consideration where (i) the difference between the unrestricted value of the land to be disposed of and the consideration for the disposal does not exceed £2,000,000, and (ii) the Council considers that the purpose for the disposal is likely to contribute to the promotion or improvement of economic, social or environmental well-being of all or any persons resident or present in the whole or any part of its area.

As a consequence of the leases benefitting from the protection of the Landlord and Tenant Act 1954, at renewal of the leases the tenants have the ability to apply to the Court to set the terms of any new lease, including the rent. If the parties cannot agree on the level of rent, the Court will decide the rent as a matter of valuation, in accordance with the terms of section 34 of the Act. The valuation formula which the Court uses to ascertain the new rent is prescribed by s.34(1) and in summary, is the sum at which the property might reasonably be expected to be let in the open market by a willing landlord, having regard to the terms of the new tenancy. It must be noted therefore that the Court may set a different rent to that which the policy pursuant to this report would impose.

## Financial Implications

Total rent income received from Sports Clubs and Youth & Elderly Persons organisations is £32k currently. Should the proposed leasing policy be approved and all outstanding lease renewals be undertaken, additional income of approximately £10k could be achieved subject to each sports club signing the Sport Service Level Agreement and each organisation that sublets the property for commercial use paying the Council a proportion of their income.

## Equalities implications / Public Sector Equality Duty

The proposals described above do not adversely impact upon persons within the protected categories.

## Council Priorities

The recommendations in this report meet key objectives to make a difference for communities and families as well as ensures that the Council acts more business like.

## Section 3 - Statutory Officer Clearance

Name: Jessie Man	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 4 September 2018		
Name: Matthew Dineen	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 4 September 2018		

## Section 3 - Procurement Officer Clearance

Name: Nimesh Mehta	<input checked="" type="checkbox"/>	Head of Procurement
Date: 5 January 2018		

<b>Ward Councillors notified:</b>	NO, as it impacts on all Wards
<b>EqIA carried out:</b>	NO
<b>EqIA cleared by:</b>	N/A

### **Section 4 - Contact Details and Background Papers**

**Contact:** Belinda Prichard, SM Valuation and Estate Management  
 Tel: 020 8420 9330  
 Email: belinda.prichard@harrow.gov.uk

**Background Papers:** None

<b>Call-In Waived by the Chair of Overview and Scrutiny Committee</b>	<b>NOT APPLICABLE</b>  <i>[Call-in applies]</i>
---	---