

ANGUS COUNCIL

STRATEGIC POLICY COMMITTEE – 11 JUNE 2013

POLICY FOR THE LEASE OF COUNCIL LAND AND BUILDINGS TO COMMUNITY / VOLUNTARY GROUPS

REPORT BY THE STRATEGIC DIRECTOR - COMMUNITIES

ABSTRACT: This report advises the Committee of the current practice of leasing land and buildings and recommends amendments to regulate the process for leases to Community / Voluntary Groups.

1. RECOMMENDATIONS

It is recommended that the Committee:-

- (i) approve the policy for the lease of Council land and buildings to Community/Voluntary Groups which may also influence decisions in respect of future applications for asset transfer;
- (ii) review the operation of the policy after 6 and 12 months.

2. BACKGROUND

Many community and voluntary groups in Angus contribute to delivering better outcomes for individuals and communities in Angus. It is therefore time to review leasing land and building arrangements to help ensure the sustainability of these groups and organisations.

To complement the policies already approved by the Corporate Services Committee for the management of the non-housing estate and to provide a formal reference document for interested parties, the Head of Property has sought to establish a specific policy for the leasing of land and buildings to Community / Voluntary Groups.

The Estates Management Section of the Property Division, Communities Department, manages the leasing of land and property for all Council Departments (including properties held on the various Common Good Accounts) but with the exception of marketing property held by the Economic Development and Environmental & Consumer Protection Division (EDECPD) and properties used for social housing purposes.

This management function includes negotiations for new leases, lease renewals, rent reviews and ensuring compliance with lease terms and conditions.

3. CURRENT POSITION

Angus Council has many different leases in place for a variety of properties e.g., offices, shops, industrial units, houses, sports clubs and fields, grazing fields etc.

Angus Council's policy in terms of leasing land and buildings, as detailed in Report No. 624/10, POLICY FOR THE LEASE OF COUNCIL LAND AND BUILDINGS, is to obtain market value and optimise rental income as contained in Financial Regulations item 17.1.4. and 17.1.5. This applies to all tenants including organisations that support Council services in Angus.

Angus Council does not currently discount prospective rent on the basis of Community Benefit when negotiating with Community / Voluntary / Charity Groups wishing to lease Council land and buildings.

Rather the policy adopted by Angus Council is to charge market rent. Tenants are then free to seek financial assistance either by Angus Council grant or other funding source bids.

Exceptionally there have been rare cases where this policy has not been employed and specific approval has been sought from the Corporate Services Committee to enter into a nominal lease normally at £1 p.a.

The lease negotiations take account of any services which may be provided on behalf of Angus Council e.g. management of football pitches and income receipt as well as the income currently enjoyed, or being planned, by tenants from social rather than communal activities.

This ensures a common, consistent and transparent approach for all prospective tenants whilst obviating potential accusations of subsidies being provided from public funds. It also avoids most potential challenges regarding fairness and equality of the assessment process that would otherwise need to be established and subsequent outcomes.

Angus Council has never received any formal complaints regarding the adopted process until 2012 when a small number of tenants seeking lease renewal or undergoing rent review have expressed concerns about the market rate applied in the current economic climate. All other tenants have accepted rent increases following negotiation. Such complaints are normally handled through the negotiation process, where an agreement on rent is a pre-requisite to enable progress, and the subsequent conclusion of the associated legal process to formalise the lease.

It is recognised however that the adoption by Angus Council of a Community Asset Transfer Policy (Report No 622/12 Angus Council at its meeting of 01 November 2012) establishes mechanisms for assessing Community Benefit and could inform the basis for a process to be established in lease and rent renewal cases.

The introduction of discounted rents will lead to a risk that many current tenants may challenge their current passing rents or make cases in the future why their rents should benefit from such discounts. The consequent impact will be a resulting net reduction in revenue income to Angus Council.

Following direction received at Corporate Services Committee at its meeting of 31 January 2013, regarding a rent renewal, Report No 67/13, and the proposed policy for the management of Car Boot sales, Report No 69/13, it has been deemed appropriate to review the current policy.

4. PROPOSALS

Application

This policy shall only apply to:-

- properties owned by Angus Council but not being used to deliver a Council service i.e. non-operational properties, including shops and offices, or properties administered by Angus Council on behalf of Burgh Common Good Funds,
- designated types of organisations for their use by way of a formal fixed term lease agreement. It shall not apply to hourly/daily lets of Council owned properties which already make allowance for community related purposes.

Policy

Angus Council wishes to assist organisations which provide Community Benefit to Angus through a discounted rent scheme for those Community / Voluntary / Charity Groups wishing to lease Council land and buildings.

Such groups should endeavour to contribute to the delivery of the Angus Community Plan and Single Outcome Agreement.

Eligible organisations shall be community / voluntary / charity groups, who are providing a service or facility which is required in the interest of the particular geographical area in which they are based.

Eligible organisations will be required to provide a constitution and satisfactory accounts, operate on a voluntary basis, be able to demonstrate that they have an equal opportunities policy and are non political.

Eligible organisations will be required to provide a statement about the aims and objectives of their organisation and a detailed business plan indicating their proposals for the use of the property which they wish to occupy and how they propose to fund the running costs for the duration of the lease. For the avoidance of doubt running costs shall include but not be restricted to repairs, insurance, utility costs, rental costs, etc.

All property to be leased will be initially valued for rental at full market value.

The level of discount to be applied will vary dependent on the type of organisation as detailed in Table 1. Eligible organisations seeking greater discounts than those outlined in table one and two, should pursue the Council's community asset transfer process which requires organisations to produce a valid business case.

Organisations detailed in Table 2 will not be eligible for a rent discount by Angus Council.

Table 1 Proposed discount strategy

Organisation	Category	Full market rental discount
Foodbanks	1	Discount to £1 p.a.
Senior Citizens Groups e.g. The Cottage, Edzell	2	30% off
Youth Groups (such as Brownies, Guides, Boys Brigade)	2	30% off
Religious Groups with local benefits	2	30% off
Charity Groups with local benefits	2	30% off
Non-profit making community organisations concerned with education, social welfare, science, literature or the fine arts	2	30% off

Table 2 Groups ineligible for discount strategy, rents at open market value

Organisation	Comment
Football Clubs	Rent is determined based upon the number of pitches and frequency of use as with an adjustment made where the club undertakes pitch management on behalf of Angus Council. Rent based upon Angus Council standard pitch charges.
Fishing Clubs	Sport, hobby or recreation is main focus as opposed to wider community benefit
Rugby Clubs	Rent is determined based upon the number of pitches and frequency of use as with an adjustment made where the club undertakes pitch management on behalf of Angus Council. Rent based upon Angus Council standard pitch charges.
Tennis Clubs	Sport, hobby or recreation is main focus as opposed to wider community benefit
Music Clubs	Sport, hobby or recreation is main focus as opposed to wider community benefit
Cricket Clubs	Sport, hobby or recreation is main focus as opposed to wider community benefit
Bowling Clubs	Sport, hobby or recreation is main focus as opposed to wider

Organisation	Comment
	community benefit
Athletic Clubs	Sport, hobby or recreation is main focus as opposed to wider community benefit
Allotments	Sport, hobby or recreation is main focus as opposed to wider community benefit
Pigeon Clubs	Sport, hobby or recreation is main focus as opposed to wider community benefit
Sailing/Yacht Clubs	Sport, hobby or recreation is main focus as opposed to wider community benefit
Model Car/Aeroplane Clubs	Sport, hobby or recreation is main focus as opposed to wider community benefit
Charity Groups with national/international benefits	National benefits, no local benefits

Rationale

The policy shall be applied in a manner which ensures a common, consistent and transparent approach for all prospective tenants using a standard set of assessment criteria. This is intended to obviate accusations of unfair subsidies being provided from public funds and ensure a transparent auditable system of rents to be charged. It also avoids most potential challenges regarding fairness and equality of the assessment process and subsequent outcomes. Assessment will require to take account of what the organisation is doing as well as looking at their status. If they are operating in a competitive environment (for example, provision of social care commissioned by Angus Council), it may be viewed as offering them an unfair advantage over other businesses.

The implementation of this policy shall enable Angus Council to demonstrate clearly the level of contribution in kind which it makes to organisations which deliver community benefits within Angus. A register detailing granted discounts shall be established and maintained by the Head of Property.

All leases shall continue to be in accordance with Angus Council standard terms and conditions whereby the tenant shall be responsible for all running costs of the building for the duration of the lease, including repairs, insurance, utility costs, rental costs notwithstanding their eligibility for, and the granting of, a rental discount in accordance with this policy.

The Head of Property shall undertake assessments in conformance with this policy in accordance with current practices and delegations for rent renewals, lease renewals and new leases, reporting to Committee where delegations are exceeded.

Existing leases shall only be reviewed in accordance with the new policy at the time of lease renewal or when the next rent review is undertaken in accordance with the lease terms and conditions. It is recognised that groups operating under the banner of Table 2 may wish hold a different view with regard to contribution to the SOA and in this regard a review of the policy after 6 months and 12 months has been built into the report.

5. RISK

This report does not require any specific risk issues to be addressed.

6. FINANCIAL IMPLICATIONS

Implementation of the proposals in this report will result in a small reduction in income to the Council. It is estimated that applying the discounts proposed in Table 1 to current qualifying tenants will result in an annual reduction in rental income of approx £3,000 per annum with £1,040 being from the Housing Revenue Account. Currently there are no qualifying tenants paying rent to the various Common Good Accounts

7. HUMAN RIGHTS IMPLICATIONS

There are no Human Rights Act implications specific to this report.

Any implications, as a consequence of discharging recommendations detailed in this report, will be managed in accordance with the standing procedures and processes established by the Property Division.

8. EQUALITIES IMPLICATIONS

The issues dealt with in this report have been the subject of consideration from an equalities perspective. An equalities impact assessment is not required.

9. CONSULTATION

The Chief Executive, the Strategic Directors-People and Resources, the Head of Law and Administration and the Head of Finance, have been consulted in the preparation of this report.

10. CONCLUSION

This report advises the Committee of the proposed policy for the leasing of land to Community / Voluntary / Charity Groups

Alan McKeown
STRATEGIC DIRECTOR - COMMUNITIES

Note: No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information), were relied on to any material extent in preparing the above report.

Property AMcK/NM