


<p style="text-align: center;"><b>Cabinet</b></p> <p style="text-align: center;">20 March 2018</p>	
<p><b>Report of:</b> Zena Cooke, Corporate Director Resources and Ann Sutcliffe, Acting Corporate Director Place</p>	<p><b>Classification:</b> Unrestricted</p>
<p><b>Premises Leased to Voluntary and Community Sector Organisations</b></p>	

<b>Lead Member</b>	<b>Mayor John Biggs</b> <b>Councillor David Edgar, Cabinet Member for Resources</b>
<b>Originating Officer(s)</b>	Emily Fieran-Reed, Service Manager, Community Cohesion, Engagement and Commissioning David Freeman, VCS Strategy Manager
<b>Wards affected</b>	All
<b>Key Decision?</b>	Yes
<b>Community Plan Theme</b>	<b>One Tower Hamlets</b>

### Executive Summary

This report recommends revising the arrangements for leasing premises to voluntary and community sector organisations and the scheme for providing reduced rent where there is a clear community benefit agreed by the Mayor in Cabinet on 1 November 2016 to include all VCS organisations which occupy Council buildings. Amendments are proposed to the scheme for rent reduction to take account of including a broader range of VCS organisations in arrangements and transitional arrangement of stepped rent is proposed for certain organisations which do not meet the eligibility criteria for rent reduction.

Other arrangements will remain as previously agreed by the Mayor in Cabinet.

### Recommendations:

The Mayor in Cabinet is recommended to:

1. Agree that the rent reduction scheme for voluntary and community sector organisations occupying Council premises agreed by the Mayor in Cabinet on 1 November 2016 be;
  - a) Extended to include all VCS organisations leasing premises from the Council;
  - b) Revised as set out in appendix A to allow for a proportionate rent reduction of either 20% or 40% for organisations engaged in economic activity where there is a significant level of activity which meets the scheme's criteria for community benefit;

- c) Revised as set out in appendix A to include nationally recognised VCS quality assurance standards in the eligibility criteria; and
  - d) Revised as set out in appendix A to allow a grace period of up to 12 months for organisations seeking a rent reduction to achieve the above QA standard.
- 2. Agree that where a VCS organisation is not eligible for the rent reduction, the impact of the increase in rent may be mitigated through a stepped rent arrangement over the period of the lease, as set out in appendix A.
- 3. Delegate to the Acting Corporate Director of Place the authority to agree the terms of, and enter into, any leases (or variations thereof) or any other agreements in order to give effect to the above recommendations.

## **1. REASONS FOR THE DECISIONS**

- 1.1 The Community Buildings Review recommendations agreed by the Mayor in Cabinet on 1 November 2016 set out arrangements for the occupation by voluntary and community sector (VCS) organisations of buildings owned by the Council in its community buildings portfolio and for a rent reduction scheme to subsidise the rent payable by organisations which demonstrate significant community benefit from their occupation of these premises.
- 1.2 At its meeting on 10 July 2017, the Grants Determination Sub Committee instructed officers to carry out an assessment of the consequences of extending to all VCS organisations occupying Council premises the arrangements agreed for organisations occupying premises in the Council's community buildings portfolio.
- 1.3 This report brings forward the results of that assessment and recommendations which will enable the arrangements agreed in November 2016 to be extended to allow a consistent approach to all VCS organisations occupying Council premises.

## **2. ALTERNATIVE OPTIONS**

- 2.1 The Council could decide to leave the arrangements to lease premises to VCS organisations as agreed in November 2016 without amendment. This would not be in keeping with the aims of the Council's Voluntary and Community Sector Strategy and the Council's wider commitment to transparency and fairness.

### **3. DETAILS OF REPORT**

#### **Background**

- 3.1 In November 2016, after a review of its community buildings and consultation with the voluntary sector, the Mayor in Cabinet agreed arrangements to ensure all VCS organisations which occupy its buildings have a lease or hiring agreement and are charged an appropriate rent (with some specific exceptions). Alongside this, Cabinet agreed a scheme to reduce the rent payable for organisations which meet specific criteria relating to the community benefit of their activities and their organisational governance and management.
- 3.2 These new arrangements only affected organisations in buildings in the Council's community premises portfolio. In July 2017, the Grants Determination Sub Committee asked officers to carry out additional work to establish what the implications of the extending scope of the new arrangements to all premises leased to VCS organisations might be, particularly in relation to the rent reduction policy. It was agreed that, after consultation with VCS organisations, proposals for revising the policy to take account of the wider scope should be brought back to Cabinet for consideration.
- 3.3 This report is concerned with revisions to the agreed arrangements for the rent reduction scheme and transitional arrangements for organisations which are not eligible for rent reduction as set out below. The other arrangements agreed in November 2016 remain including the key terms for leases and the requirement that the occupation of Council premises by VCS organisations must be on the basis of a formal lease. While this report recommends some revisions to the rent reduction scheme the key provisions remain, including the exclusion of leases other than 3 – 5 year leases on standard terms, ground rent, day care facilities and premises used by faith groups for worship and services for their congregations. A summary of the arrangements previously agreed is included in the statement of policy and practice attached at Appendix D.
- 3.4 The arrangements agreed in November 2016 as they apply to users of buildings in the community portfolio are being progressed as far as possible. The rent reduction scheme currently has some pilot applications being assessed which will be reviewed prior to full implementation.

#### **Proposals**

- 3.5 Discussions were held with VCS organisations both individually and through the Premises Forum convened by TH Council for Voluntary Service (THCVS). Additionally, a desk top exercise was conducted to assess how the agreed arrangements for occupiers of the Council's community portfolio might be applied to VCS organisations occupying premises in the commercial portfolio.

- 3.6 This assessment identified four key areas where the agreed arrangements would need to be revised to take account of the extended scope of their application. These are:
- a. Whether there should be a proportionate rent reduction where there is a mix of economic (i.e. commercial) and community benefit activity;
  - b. Whether the rent reduction scheme should include quality assurance (QA) standards other than the preVisible assessment included in the agreed scheme;
  - c. Whether organisations seeking rent reduction should be allowed a period of time to achieve a relevant QA standard, and
  - d. What transitional arrangements the Council might introduce for organisations facing significant rent increases but which are excluded from the rent reduction scheme.

- 3.7 Proposals were drafted to address these four concerns. They are set out in full in the Appendix A but may be summarised as:

- a. Partial rent reduction.

The rent reduction scheme allows a reduction of 80% on the level of rent payable. Organisations which engage in economic activity are currently excluded from the rent reduction scheme. The Council's proposal was for a partial rent reduction for organisations which are not solely engaged in economic activity to take account of the activities which meet 'community benefit' criteria. It is now proposed that an organisation which leases a building where there is a mix of economic and community activity may apply for a 20% or 40% rent reduction depending on the level of community benefit.

- b. Quality assurance standards.

Currently all organisations seeking rent reduction are required to achieve an acceptable level in the preVisible assessment. It is now proposed that a wider range of quality assurance standards will be accepted in circumstances where the premises are not hired out to other organisations or the general public. Where a building is hired out, the preVisible standard would still be used as this is the 'industry standard' for community centres.

- c. Achieving quality assurance.

Currently organisations are required to achieve the quality assurance standard before being awarded a rent reduction. Achieving a quality mark may take up to a year. It is now proposed to allow a grace period of up to 12 months to achieve a quality mark where it is considered an organisation will achieve the required standard within that period.

d. Transitional arrangements.

Some organisations are excluded from the rent reduction scheme. It is proposed that these organisations are offered stepped rents which will reduce the initial impact of rent rises by increasing the rent over the lease period in steps from a low base in year one to the market rent by the end of the lease.

### Impact of the proposals

- 3.8 The proposals are principally directed towards addressing issues arising from extending the rent reduction scheme to VCS organisations occupying buildings outside the Council's community portfolio (including, for example, commercial premises). There are currently 41 VCS organisations occupying premises or land outside the community portfolio. Of these, many have long leases, ground leases and other provisions which would exclude them from the rent reduction scheme. These are summarised in the table below. There are also leases on buildings which are service centres such as day centres which are linked to service delivery contracts with the Council.

Status	No of premises
Long lease	14
Ground lease	1
Land leased at peppercorn rent	5
Service centres	6
Playgroups	3
Faith	2
Others	10
<b>Total</b>	<b>41</b>

- 3.9 The organisations where the proposals are likely to have an impact are those which have a mix of economic and community benefit activity which could potentially meet the rent reduction criteria but were excluded because they occupy buildings outside the community portfolio. In the case of stepped rents, the impact of the revised proposals will be on organisations which meet the required standards for rent reduction but are ineligible.
- 3.10 Overall it is anticipated that the proposals, if agreed, will give the opportunity to the ten organisations in the 'other' category to apply for rent reduction. At this stage it is not possible to accurately quantify the likely cost. None have applied to the scheme and been evaluated as they are currently ineligible and, for some, the appropriate rent for the buildings is still being assessed.
- 3.11 If all successfully applied for rent reduction, it is estimated the opportunity cost to the Council from lost income could be £95,000. However, it is likely that not all would qualify for rent reduction and, of those which qualify, some would

be awarded 20% reduction rather than the higher rates. If all were eligible for a 20% reduction the cost to the Council would be £31,000.

- 3.12 While this is clearly a cost to the Council, it would be consistent with the income foregone from rent reduction for VCS organisations which occupy buildings in the Council's community portfolio.

### **Engagement with the Voluntary and Community Sector**

- 3.13 The Council's proposals were widely distributed to the VCS through:
- Individual contact with all 106 organisations identified as leasing premises from the Council, including those in the community portfolio;
  - An open VCS Premises Forum meeting on 15th November attended by 30 VCS organisations;
  - Email bulletins from THCVS to its 900 contacts in the VCS;
  - A meeting with the Early Years Network on 5th December, and
  - An on line survey.
- 3.14 The papers sent to organisations were a discussion document setting out the proposals attached at Appendix A, an extract from the Cabinet report of 1st November 2016 setting out the rent reduction scheme and appendices to that report setting out the criteria and process for rent reduction.
- 3.15 The consultation period was from 27th October to 8th December.

#### On line survey feedback

- 3.16 22 responses to the survey were received. These are summarised at Appendix B with commentary where appropriate.
- 3.17 Overall the proposals put forward were welcomed by the majority of respondents. Only two of the respondents disagreed with the proposals.
- 3.18 The key points raised were:
- The expansion of the range of acceptable quality assurance standards was welcomed and some suggestions made of additional QA standards which the Council might consider;
  - Organisations should receive capacity building support to enable them to meet appropriate QA standards;
  - The Council should consider a longer grace period for organisations to achieve a recognised QA standard;
  - Organisations whose contracts were awarded prior to the policy being adopted should not be penalised; and

- Stepped rent is not a long term solution to sustainability.

#### TH Council for Voluntary Service (THCVS) Premises Group feedback

- 3.19 The meeting of the VCS Premises Group convened by THCVS on 15 November was attended by 17 organisations. THCVS also presented issues raised by organisations which could not attend.
- 3.20 The discussion paper was generally welcomed and the suggestions put forward were supported. The main issues raised were:

<b>Issue</b>	<b>Response</b>
Rental discount should be based on added value to the community.	The rent reduction scheme is the mechanism where the Council takes account of the added value to the community of a tenant's activities.
Some organisations may decide to close because they cannot afford any increase in rent.	If an organisation decides to close the Council will provide support to help ensure an orderly wind down of activities if no alternative solution can be found.
What is to prevent the Council from continuing to increase rents at the end of each lease term?	The Council will charge the market rent applicable at the time a lease is renewed. For community buildings this will be the community rate calculated to take account of the planning restrictions on the use of the building.
Organisations may not know whether they should opt for a stepped rent or rent reduction.	Even if an organisation only qualifies for a partial rent reduction it is likely the rent reduction will be the better option. The stepped rent arrangement includes an element of subsidy over the whole five year lease term but it is a one off arrangement to take a leaseholder from a subsidised (or zero) rent to a market rate. Once the steps reach the market rate any subsequent increases will be in line with the market and stepping would no longer be appropriate or necessary.
Some organisations may need additional space because of mobility issues for their staff and service users. The Council should take account of this when assessing a fair rent for the premises.	This is principally a commissioning issue. If the Council commissions a service where it is necessary or desirable for the contracted organisation to have space to take account of mobility or any other issues which are important in the delivery of the service, it should take

	account of this in the commissioning specification. As with any other element of the rent reduction policy, the Council must be minded of its duty under public law and potential challenge from other potential providers if the Council provides an unfair competitive advantage to organisations that occupy its buildings
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- 3.21 The notes of the THCVS Premises Group meeting are available at <https://www.thcvs.org.uk/voice/premises-forum>.

## **Conclusions**

- 3.22 The consultation process with the VCS showed the majority of respondents endorsed the Council's proposals. Most of the comments made by respondents have been responded to positively, including providing support for organisations seeking QA standards and large national bodies having a disproportionate advantage. No alternative or additional proposals were made to address the key issues identified.
- 3.23 The recommendations put forward are as proposed in the consultation documents with only one significant change. A number of respondents suggested QA standards not included in the list suggested by the Council. This is reflected in the recommendations which propose including nationally recognised VCS QA standards in the rent reduction criteria.

## **4. COMMENTS OF THE CHIEF FINANCE OFFICER**

- 4.1 Financial implications of the proposals presented within this paper are detailed within paragraph's 3.11 and 3.12 above. It is likely that the wider strategic and community benefits of the approach recommended within this report outweigh the potential income that will be lost, however, this should also be viewed in the context of the Council's MTFS and budget pressures.

## **5. LEGAL COMMENTS**

- 5.1 The report seeks to implement a revision to the Community Benefit Rent Reduction Policy, which was agreed by the Mayor in Cabinet in November 2016. Specifically, the report seeks to:
- i. widen the scope of Council-owned buildings to which the current policy applies, beyond those within the community building portfolio;
  - ii. relax the rent reduction eligibility to include those engaged in economic activity, but in doing so apply a level of subsidy which is commensurate with the level of community benefit activity;



- iii. revise the eligibility criteria to cover a broad range of quality assurance standards and allow a period of up to 12 months for organisations to achieve a standard; and
  - iv. introduce a stepped-rent arrangement to mitigate the impact of a rise in rent for organisations which are ineligible for the rent reduction.
- 5.2 The Council's powers in relation to disposal of property (which includes the granting of leases) are set out in legislation. Having regard to the extended scope of the policy, section 123 of the Local Government Act 1972 (the "1972 Act") and section 32 of the Housing Act 1985 ("the 1985 Act") are most relevant.
- 5.3 The 1972 Act provides that the Council may dispose of land for a consideration not less than the best that can reasonably be obtained, failing which the consent of the Secretary of State is required. However, section 123(7) confirms that this requirement does not apply to short tenancies (i.e. those with a term of up to 7 years). Given that the rent reduction policy applies only to leases which have terms of between 3 and 5 years, the requirement for best consideration does not therefore apply in respect to buildings held in the General Fund and the Council can therefore lawfully grant the leases on the terms set out in the report.
- 5.4 The 1985 Act provides that the Council may not dispose of land (which includes a lease of any term) without the consent of the Secretary of State. The Secretary of State has issued the General Housing Consents 2013 which permits the disposal of "vacant land", being land on which there are no dwellings, for a price determined by the Council. Given the nature of the premises, which are not dwellings held for housing purposes, the Council can lawfully grant the leases on the terms set out in the report without further Secretary of State approval.
- 5.5 The Community Benefits Rent Reduction Policy, as revised by this report, is tantamount to a grant regime. The Council has various powers to offer financial assistance in this way, including pursuant to the general power of competence under section 1(1) of the Localism Act 2011 which permits it to do "anything that individuals generally may do".
- 5.6 In giving community organisations subsidies, the Council needs to be mindful of the State Aid rules, which aim to prevent the distortion or threat of distortion of competition in the market. The rules, however, do not apply to de minimis aid (€200,000 per recipient over a three fiscal year period) and the arrangements set out in the report in terms of the subsidy to CVS organisations and the stepped-rent for ineligible organisations are unlikely therefore by themselves to be caught in these circumstances because of the values involved. In assessing organisations' eligibility for rent reduction however, and being mindful of the de minimis threshold, the Council must consider the totality of all funding received by an organisation from state resources and this must form part of the assessment process. The totality of state funding (including the rent reduction) must not exceed the de minimis threshold over the stated period.

- 5.7 Notwithstanding that the de minimis threshold will not be allowed to be exceeded, the Council in dispensing public funds should be concerned to be acting fairly and reasonably and not favouring organisations who are engaged in economic activity and who occupy Council-owned buildings over those who do not because of the potential distortion of competition. For these purposes, those engaged in economic activity are those involved in putting goods or services on the market. The revised policy addresses this by allowing those organisations engaged in economic activity to apply for a rent reduction, but only takes into account the level of community benefit activity the organisation engages in. By applying the revised eligibility criteria equally to applicants, the Council can be considered to be acting fair and reasonable in this regard. Notwithstanding, the Council must ensure that it is not over-compensating the organisation (i.e. that the level of rent reduction given does not exceed their proportionate expenses which would be tantamount to a profit) and the organisations costs and expenses must therefore form part of the assessment process.
- 5.8 The revised policy follows a period of additional consultation carried out with those whom are affected by it. A consultation exercise should comply with the following:
- i. It should be carried out when proposals are at a formative stage;
  - ii. It should give sufficient reasons for the proposal to permit intelligent consideration and response;
  - iii. It should allow adequate time for consideration and response; and
  - iv. The product of the exercise must be conscientiously taken into account.

The consultation exercise, as described in the report, complies with the above criteria.

- 5.9 As explained at paragraph 6, a full equalities assessment was undertaken and given due regard in preparation of the existing rent reduction policy which was approved by the Mayor in Cabinet in November 2016. It is relevant that the revised proposal relaxes eligibility and thereby affords more organisations (who are likely to represent those with protected characteristics) the opportunity to benefit from the rent reduction. The Public Sector Equality Duty is satisfied.

## **6. ONE TOWER HAMLETS CONSIDERATIONS**

- 6.1 The report to Cabinet in November 2016 included a full equalities assessment. The recommendations of this report do not significantly change that assessment.

## **7. BEST VALUE (BV) IMPLICATIONS**

- 7.1 The recommendations in this report are closely aligned with the council's Best Value Action Plan, which was drawn up following the issuing of Direction from

the Secretary of State for Communities & Local Government in December 2014.

## **8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

- 8.1 There are no immediate and significant sustainability implications arising from this report.

## **9. RISK MANAGEMENT IMPLICATIONS**

- 9.1 Having a clear, consistent and transparent policy on charging and allocation of community spaces and buildings will minimise the risk of challenge on decisions the Council takes in relation to allocating and charging for buildings leased to VCS organisations.

## **10. CRIME AND DISORDER REDUCTION IMPLICATIONS**

- 10.1 There are no specific crime and disorder implications arising from this report

## **11. SAFEGUARDING IMPLICATIONS**

- 11.1 There are no immediate safeguarding implications arising from this report. Community groups who work with young children or vulnerable adults will be expected to comply with all relevant legislative requirements, as well as any specific conditions arising from any award from the Council.

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## **Linked Reports, Appendices and Background Documents**

### **Linked Report**

Cabinet 1 November 2016 'Community Buildings Review - Recommendation Report'

### **Appendices**

- Appendix A - Proposed Revisions to Arrangements for Leasing Premises to VCS Organisations
- Appendix B - Summary of Consultation
- Appendix C - Voluntary and Community Sector Organisations
- (as defined by the Council's VCS Strategy 2016 – 19)
- Appendix D – Statement of Policy and Procedures

### **Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012**

- NONE.

### **Officer contact details for documents:**

N/A

## Appendix A

### Proposed Revisions to Arrangements for Leasing Premises to VCS Organisations

#### 1. Proportionate Rent Reduction

The rent reduction policy currently excludes organisations that are considered to be engaged in economic (i.e. commercial) activity on the basis that, notwithstanding that the State Aid rules would not apply given the de minimis level of subsidy, it may be considered unreasonable or unfair for the Council to subsidise such organisations simply because they occupy Council-owned buildings, the effect of which may be to potentially distort competition in a particular market.

The proposals agreed in November 2016 acknowledged there had been some discussion as to whether the rent reduction could be applied proportionately where there was some community use ancillary to the economic activity. However, because of the complexity of such arrangements and the difficulty in administering them, the Council decided not to adopt that approach.

The extension of the scope of community use and potential eligibility for rent reduction has highlighted this issue again. There are a number of premises now brought within the scope of the rent reduction scheme where there appears to be a mix of economic and community activity. While there remains a strong argument against introducing a complex mechanism for applying a proportionate approach, the Council is now considering whether there is scope for a simple proportional assessment.

A simple assessment could be based on an agreed standard proportion of community use, calculated either in time or in space used. The qualifying eligibility threshold could be applied either by floor area or by time actually used, solely applied to activity which has community benefit.

Two thresholds are suggested. The first is where a building is mainly used for activities considered to be 'economic' but which may also be used for a limited amount of community benefit activity, in the evenings and at weekends for instance. The second is where there may be a mix of use at the same time and a significant proportion of space is used for community benefit activity.

The proportion may be calculated by the organisation seeking rent reduction either by:

1. Activity space which is devoted to community benefit activities (activity space excludes common areas and staff kitchen facilities but will include kitchens which are ancillary to activity rooms), or
2. Available opening time devoted to community benefit activities (time where both take place will be considered economic activity).

In the current scheme, the standard rent reduction where a building is exclusively used for community benefit activity is 80%. The suggested rent reductions for mixed use are;

1. 40% rent reduction where the use for community benefit activity is 50% – 99%, and
2. 20% rent reduction where the use for community benefit activity is 25% – 49%.

So if the market rent for a building was £10,000, the lessee would pay:

£2,000 if the building is used solely for community benefit activity;  
£6,000 if the building is used over 50% for community benefit activity and  
£8,000 if the building is used over 25% for community benefit activity.

To qualify for a proportionate rent reduction, organisations which undertake some economic activity must be able to meet the criteria set out in the rent reduction scheme for their community benefit activity.

1. The lessee can meet organisational standards criteria set out in rent reduction scheme
2. Non-economic activities meet the community benefit requirements set out in the rent reduction scheme
3. Either a proportion of activity space is devoted to community benefit activities (activity space excludes common areas and staff kitchen facilities but will include kitchens which are ancillary to activity rooms), or
4. A proportion of available opening time is devoted to community benefit activities (time where both take place will be considered economic activity)

Annual monitoring of community benefit will include confirmation that the proportion remains as initially agreed or more.

## **2. Rent Reduction Criteria - Quality Assurance Standards**

The rent reduction policy requires organisations to go through an independent assessment process to ensure they are compliant with legislative requirements, have good quality and appropriate policies and procedures in place and have the capacity to manage premises effectively. The policy identified “preVisible” as the most appropriate assessment process with, in addition, “Your Value!” for larger organisations.

PreVisible is a tool designed for organisations which manage premises used by others and/or the general public. For many organisations based in premises in the community portfolio, this is the most appropriate assessment tool to match their activities but for the wider portfolio this is not necessarily the case. Other nationally recognised assessment processes may be more appropriate for these organisations and many national charities require their local branches to meet their own quality assurance standards.

The Council will still require a preVisible assessment for organisations which are managing community centres or other premises where the primary function is to hire out facilities to other organisations or the public. However, for other organisations the Council will accept PQASSO, EFQM Excellence Model, ISO 9000/1 and the Matrix Standard. Where an organisation is an autonomous branch of a national body, the Council may accept the national body's accreditation standard. This may be considered on a case by case basis.

### **3. Rent Reduction Process – Achieving Quality Assurance**

Quality assurance assessment processes are often lengthy and for larger organisations may be complex. After an organisation's expression of interest has been accepted, to take the application for rent reduction further, the organisation is required to demonstrate it meets quality standards. The Council has made provision for support for organisations to achieve a quality mark through THCVS and other organisations.

Part of this process is an independent assessment. Where an organisation does not meet the required standard in this assessment, the rent reduction scheme does not currently make provision to take account of potential improvement.

The Council is now proposing that, where an organisation fails to meet the required standard but provides an action plan endorsed by the independent assessor, the rent reduction may be agreed conditional on:

1. The independent assessor agreeing that the proposed action plan is achievable within an agreed timescale, normally six months and not exceeding twelve months of the Council's acceptance of an organisation's expression of interest;
2. There being no other considerations which might give the Council concern that the organisation may not be able to reach an acceptable standard within the agreed timescale; and
3. The organisation undertaking to complete the lease with the Council at a market rent with effect from the date of the Council's decision to award rent reduction.

If an organisation is awarded rent reduction but fails to achieve the necessary quality standards within the agreed timescale, the organisation will be offered the option to surrender the lease without penalty (subject to discharging any accrued liability) or to revert to the full market rent.

### **4. Stepped Rent Lease Agreements**

A stepped rent arrangement is a mechanism to give a transitional period for a rent increase to take effect. In essence, the level of rent rises over the period of the lease at times and at levels agreed at the beginning of the lease. The steps reflect the low

start based on the full market rent and increase to the market rent in the final year of the lease.

In a commercial setting the principle is that the equivalent to full rent payments are made over the course of the term but stepped to make it less of a financial burden in the early years when a business may be starting up. Where the lessee is a VCS organisation the value of the community benefit it provides will be acknowledged by the Council through an element of subsidy incorporated into the stepped rent arrangement.

The arrangement the Council is proposing is an annual increase over the period of the lease. The starting point would be the current rent plus 30% of the increase in year one with incremental 20% rises so that the final year would reflect 100% of the increase, as illustrated below. The effect of providing this transition would be to give a rent subsidy over the period of the lease of up to 32%.

Where the rent has previously been a peppercorn or there has been no formal lease, the increase will actually be the new rent. For the purposes of the illustration below it is assumed a lease is already in place with a rent of £1,000 per annum. The new rent at renewal is £8,000, an increase of £7,000

Year	Rent payable	% of rent increase	Initial rent	Incremental increase	Saving on market rent
Year 1	£3,100	30%	£1,000	£2,100	£4,900
Year 2	£4,500	50%	£1,000	£3,500	£3,500
Year 3	£5,900	70%	£1,000	£4,900	£2,100
Year 4	£7,300	90%	£1,000	£6,300	£700
Year 5	£8,000	100%	£1,000	£7,000	0
Total					£11,200

This example is for illustrative purposes to demonstrate the principle and could vary according to the circumstances and lengths of individual leases.

The stepped rent arrangement is intended to help support organisations in the transition from a subsidised or zero rent to a market rent. However, organisations are expected to be able to demonstrate some level of self-sufficiency. While these proposals set out proportionate payments, the Council is considering whether it would be appropriate for a de minimis rental level of £2,000 which organisations would be expected to pay even if the calculation of their initial step rent was lower.

## Criteria

Stepped Rent will only be considered where an organisation is excluded from the Council's rent reduction scheme. It will not be considered where an organisation is eligible for the rent reduction scheme but fails to meet the organisational and community benefit criteria.

Each case will be considered on its merits but the organisation must meet the same organisational and governance requirements as required for the rent reduction scheme and the premises not used for commercial purposes.

### **Application Process**

The application process will follow the same format as for the rent reduction scheme with the opportunity to submit an expression of interest being offered with the offer of a lease. The initial and, where appropriate, detailed assessment will offer the opportunity of appeal to the rent reduction appeal panel for a final decision.

### **Reporting**

Where the Council agrees a stepped rent, the decision will be reported alongside the reporting of rent reductions to the Grants Determination Cabinet Sub-Committee for information.



## Summary of Consultation

### Survey Results

Four open questions were asked in the survey. Each one related to one of the proposals put forward by the Council to revise the rent reduction scheme and other lease arrangements.

There were 22 respondents representing 19 different organisations and one individual. One response was anonymous. 20 responses were from Tower Hamlets based organisations or residents. 15 responses were from organisations currently occupying Council owned premises.

All of the survey responses were completed after the TH Council for Voluntary Service Premises Group meeting on 15 November 2017 and many were completed by representatives of organisations which attended that meeting. It is therefore reasonable to assume many of the responses to the survey were informed by the discussion at the THCVS meeting.

The four proposals and questions together with a summary of the survey responses are set out below. Where organisations have raised concerns or questions, the Council's response is also included.

**Proposal 1** Proportionate rent reduction where there is a mix of economic and community benefit activity;

*What do you think of the suggestion there should be some opportunity for organisations which have contracts with public bodies to have a partial rent reduction if they also have separate activities which satisfy the community benefit criteria?*

Response	Number of responses	Council commentary
Agree	13	
Disagree	1	
Full reduction to all VCS organisations	4	The Council has already agreed the maximum reduction will be 80% following consultation with the sector in 2016.
Concern about compatibility of general community use with main services, particularly where there is specialist equipment and facilities.	1	It is acknowledged that general community use may not be compatible with some other uses. The assessment can therefore be based on either time or space devoted to community use.
Concern that large national charities might benefit	1	Large national charities are mainly funded through contracts rather than

disproportionately		grants. They would therefore be excluded from the rent reduction scheme unless they could demonstrate significant local community benefit from non-contract activity.
Need more information	1	The Council has made the consultation documents and background information available through direct mailing and via THCVS website. In addition there have been sessions organised by both the council and THCVS for interested parties to discuss the issues.
Consider applying retrospectively	1	The purpose of the proposed changes to the current policy is to ensure organisations are dealt with equitably. If organisations believe they have been disadvantaged, the Council may consider individual cases on their merits.

**Proposal 2** Rent reduction criteria – a wider range of acceptable quality assurance standards;

*What do you think of the suggestion that the Council should accept quality standards other than preVisible where an organisation is not managing a building hired out to other organisations or the public? Are there other quality standards in addition to those we are suggesting may be acceptable?*

Response	Number of responses	Council commentary
Agree	9	
Disagree	1	No reason given so cannot comment
Additional standards suggested	7	The Council will include its preferred list in the rent reduction scheme but will also accept equivalent QA standards if they are nationally recognised.
Cannot comment	2	Unclear why these respondents could not comment
Unclear	2	Statements which appear to be endorsing the principle of QA being used as a criterion for rent reduction but not specifically agreeing or disagreeing with the Council's proposal.
No response	1	

**Proposal 3** Rent reduction process – grace period to achieve quality assurance standard;

*What do you think of the suggestion that organisations should be granted a rent reduction conditional on achieving a quality assurance standard within an agreed period not exceeding 12 months?*

Response	Number of responses	Council commentary
Agree	11	
Agree if support offered	3	Agreement has already been reached with THCVS to provide support where appropriate
Agree but longer grace period to achieve QA	2	12 months should be an adequate period for organisations to achieve QA. In exceptional circumstances the council could consider extending the grace period but any extension would undermine the purpose of seeking QA.
Disagree – should just be working towards QA	1	Simply working towards QA gives no indication of the capacity of an organisation to manage premises and provide a good quality service.
Disagree – not feasible	1	This comment related to an organisation which has a statutory requirement to meet service quality standards. The proposal is that the Council would not be seeking additional QA over and above a nationally recognised standard.
Need to consider balance of cost of achieving QA and potential rent reduction	1	Most QA assessments are modestly priced and it is unlikely the cost would exceed the potential rent reduction over a period of years even at the lowest level.
Unclear	2	
No response	1	

**Proposal 4** Stepped rent increases for organisations not eligible for rent reduction

*Do you think the Council should offer a subsidised stepped rent to organisations which are not eligible for rent reduction as set out in the discussion paper? Is there a better way to help organisations in the transition to paying a full market rent for their premises?*

Response	Number of responses	Council commentary
Agree	11	
May be misused	1	Not known why this respondent though this proposal open to abuse
New organisations only	1	The Council agreed in 2016 that existing occupiers should be offered transitional arrangements of which this is one.
Longer term implications on levels of reserves and sustainability	2	Some organisations may choose to use their reserves for rent payments but the purpose of stepped rents is to allow time for organisations to change their business model over a period of years to give them greater sustainability.
Concern about affordability of market rent	2	The Council has agreed the general principle that it should charge a market rent and that the impact of this should be mitigated where appropriate. However, some organisations may face difficult decisions about the use of premises and what is appropriate for them in the future.
Concern about how market rent is determined	1	Organisations should take the opportunity in the lease negotiations to question how the level of rent is assessed and challenge whether it is a true market rent.
Unclear	1	
No response	2	

### TH Council for Voluntary Service (THCVS) Premises Group

The meeting of the VCS Premises Group convened by THCVS on 15 November was attended by 17 organisations. THCVS also presented issues raised by organisations which could not attend.

The discussion paper was generally welcomed and the suggestions put forward were supported. The main issues raised were:

Issue	Response
Rental discount should be based on added value to the community.	The rent reduction scheme is the mechanism where the Council takes account of the added value to the community of a tenant's activities.
Some organisations may	If an organisation decides to close the Council will

decide to close because they cannot afford any increase in rent.	provide support to help ensure an orderly wind down of activities if no alternative solution can be found.
What is to prevent the Council from continuing to increase rents at the end of each lease term?	The Council will charge the market rent applicable at the time a lease is renewed. For community buildings this will be the community rate calculated to take account of the planning restrictions on the use of the building.
Organisations may not know whether they should opt for a stepped rent or rent reduction.	Even if an organisation only qualifies for a partial rent reduction it is likely the rent reduction will be the better option. The stepped rent arrangement includes an element of subsidy over the whole five year lease term but it is a one off arrangement to take a leaseholder from a subsidised (or zero) rent to a market rate. Once the steps reach the market rate any subsequent increases will be in line with the market and stepping would no longer be appropriate or necessary.
Some organisations may need additional space because of mobility issues for their staff and service users. The Council should take account of this when assessing a fair rent for the premises.	This is principally a commissioning issue. If the Council commissions a service where it is necessary or desirable for the contracted organisation to have space to take account of mobility or any other issues which are important in the delivery of the service, it should take account of this in the commissioning specification. As with any other element of the rent reduction policy, the Council must be minded of its duty under public law and potential challenge from other potential providers if the Council provides an unfair competitive advantage to organisations that occupy its buildings.

**Voluntary and Community Sector Organisations**  
(as defined by the Council's VCS Strategy 2016 – 19)

- Registered charities
- Community groups
- Community associations
- Tenants and residents groups
- Green Spaces Friends Groups
- Co-operatives and social enterprises
- School/parent groups
- Faith organisations
- Sports, environmental, arts and heritage organisations
- Grant making trusts
- Housing associations
- Non-constituted groups of residents working together to make a difference in their local communities

## **Tower Hamlets Council**

### **Council Buildings Leased to Voluntary and Community Sector (VCS) Organisations**

## **Statement of Policy and Procedures**

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## **Section 1 Introduction**

The Council's VCS Strategy includes a commitment to supporting the sector through taking a strategic approach to providing premises. Central to this is the provision of quality accommodation for local activities in a network of Community Hubs. This strategic approach also commits the Council to making best use of resources through a fair and equitable approach towards organisations using all or part of a Council owned building.

The Council initiated a full review of its portfolio of community buildings (ie buildings restricted to D1 use for planning purposes, limiting their commercial value) in December 2015 which reported in November 2016. The full Cabinet Reports can be found at,

<http://democracy.towerhamlets.gov.uk/documents/s93867/5.6%20-%20Community%20Buildings%20Cabinet%20Report.pdf>, and

<http://democracy.towerhamlets.gov.uk/documents/s79780/5.2a%20Community%20Buildings%20Management.pdf>.

In July 2017 the Council agreed to initiate further work to bring all buildings owned by the Council within the scope of the arrangements agreed previously for community buildings. This report can be found at,

<http://democracy.towerhamlets.gov.uk/ieListDocuments.aspx?CId=812&MId=7525&>.

Revised arrangements arising from this work have been proposed to include all premises within the scope of the arrangements previously agreed.

This document brings together the core principles and arrangements agreed by the Council for the use of all Council owned buildings by VCS organisations in one policy and set of procedures.

## **Section 2 Objectives**

The Council needs a clear business rationale to support a fair policy for the leasing of buildings in its ownership, in order to:

1. Meet the current legal requirement to secure both best value and best consideration
2. To make the basis of any subsidies are clear and transparent.
3. To ensure that community buildings in the Council's ownership are fit for purpose, particularly as regards health and safety and preventative maintenance
4. Recover the costs of maintenance and repair of buildings, or makes clear where responsibility for these lie with the tenant.



5. Demonstrate a fair, consistent and justifiable approach to the letting of community buildings
6. Maximise the utilisation of community buildings conducive to optimum local benefit, encouraging shared use of buildings where possible
7. Formalise tenancy agreements based on standardised contractual models
8. Reduce, where possible, the amount of Council management time spent on running community assets.

## **Section 3 Principal Lease Terms**

The Council will normally offer a short term lease on the basis of the standard principal lease terms set out below. Where an organisation does not require or may not have exclusive use of a building full time, the Council may issue a licence to occupy which has limited security but may be sufficient for the organisation's needs and allow other occupation to make better use of the resource.

### **1. Length of lease**

Where applicable, the building would be let on a standard form of lease for a period to be agreed. In most cases this would be for 3 to 5 years. By defining a term this may give occupiers sufficient security to invest in the property in such things as furnishings or internal decoration.

For some, particularly medium or larger organisations, there is the opportunity to seek grant funding from organisations outside the Council e.g. Big Lottery Fund etc. In these circumstances funders may insist that leases are in place for longer periods, sometimes up to 25 years; these could be accommodated in appropriate cases. In all leases with a term in excess of 5 years there would be a landlord's break option, on notice, in the event that the property was required for redevelopment or as otherwise appropriate. The law provides adequate remedies if the tenant breaches any of the other terms but these could be specified in the lease.

Where organisations are in receipt of funding (either through grants or service contracts) solely from the Council, leases will not run beyond the period for which the grant funding or the service contract is expected to terminate.

### **2. Rent**

Rent will be based on open market value based on permitted use. Rent for D1 use (non-commercial use) will be referred to as 'community rent'.

In very limited circumstances, the Council may enter into a lease based on a peppercorn rent (e.g. £1 per year). However, these will be limited to Tenants and Residents Associations (TRAs) as recognised by Tower Hamlets Homes

Limited (the Council's housing arms-length management company) for the purposes of discharging their statutory functions. The community building must form part of the Housing Revenue Account, be well used and in good condition.

### 3. Landlord and Tenant Act 1954

All leases will be excluded from the security of tenure provisions of the Landlord and Tenant Act 1954 (this will also reduce the open market rental value for the property). For some larger organisations paying full market rental, this may be waived by negotiation.

### 4. Outgoings

The tenant will be responsible for all outgoing in the way of charges for services (gas, electricity, water, rates etc.) and will be responsible for statutory testing, internal redecoration and security.

### 5. External repairs

The Council will repair and recover cost through a service charge. In order to keep the cost of the service charge minimal, once initial repairs have been undertaken, the Council will only be responsible for maintaining the building to the extent that it is wind and watertight plus periodic redecoration to preserve the fabric of the building. Repairs beyond this will be at the Council's discretion following consultation with the tenant.

### 6. Insurance

The Council will insure the building only and recover the cost from the tenant. The tenant will be responsible for contents and all other insurance.

### 7. Sub Letting

Tenants will be encouraged to allow other bona fide groups to use the accommodation. This could form part of the assessment of community benefit. The lease will regulate this type of sub-user by requiring them to enter into a prescribed form of licence with the tenant, setting out the obligations of the licensee. Council officers will assist with a suitable standard form of licence.

The Council may also take steps to ensure that support is in place to help groups to publicise the availability of space within a building. This may include assistance with website design and links from the Council website, or advice and one off grant support to help with advertisements, posters and other publicity via the Third Sector Team.

## 8. Governance

The tenant organisation will be properly constituted with named persons responsible for overseeing the tenant's obligations.

## 9. Break clauses

In certain circumstances, where there is a possibility of the property being required for redevelopment or other purposes there may be a clause inserted giving the landlord the option of breaking the lease before the end date.

There will also be a tenant's break clause as standard. This will allow tenants to respond to changes in the organisation's financial circumstances and allow an organisation to return the building to the Council without premium if it loses Council funding.

## **Section 4 Dissemination of best practice**

Groups who are acknowledged as "good" operators i.e. already running their community holding successfully to the benefit of everyone, should be invited and encouraged to help and mentor other groups wishing to move forward and / or where possible or necessary be asked to take over the running of additional buildings in their area.

## **Section 5 Transitional arrangements**

The transition from paying a limited contribution for their building to paying a community rent will not be straightforward for many organisations and it may be necessary for a phased introduction of the charges. The Council may therefore offer a graduated or 'stepped' increase in rent over the period of the new lease. Details of how this will operate are set out in Appendix A. This will be considered in consultation with the relevant service who will also be able to offer business planning advice and mentoring to minimise the impact of the introduction of charges. This will be supplemented by support from THVCS that will be funded by the Council as part of the THCVS infrastructure support contract.

## **Section 6 Community Benefit Rent Reduction**

The Council recognises that the activities of many organisations which occupy its premises provide valuable community benefits. In recognition of this, the Council will offer a rent reduction of up to 80% of the rent payable to organisations which meet specific eligibility criteria and can demonstrate their activities provide community benefit.

The rent reduction scheme was set up in consultation with the VCS to provide a transparent and consistent method of assessing the community benefit. It is open to all organisations which hold short term (3-5 year) leases with the Council subject to specified exceptions set out below and it may not be provided where an organisation's funding is through a contract with the Council for reasons set out in Appendix B

The Council recognises that organisations may derive part of their funding from economic activity but all or part of its other activities could be considered to have community benefit. Where an organisation may be able to meet the community benefit criteria in part, the Council may offer 40% or 20% rent reduction depending on the proportion of activity which meets community benefit criteria. Appendix C sets out how this partial rent reduction is assessed.

### **Eligibility criteria and assessment**

The applicant organisation must be able to demonstrate that it is:

1. Community-led (i.e. its proposed/existing governance arrangements must demonstrate that it has strong links with the local community, and that members of the community are able to influence its operation and decision-making processes);
2. Appropriately constituted and capable of demonstrating good governance through open and accountable processes, with adequate monitoring, evaluation and financial management systems;
3. Capable of sustainably, legally, and safely managing an asset and delivering services from it;
4. Capable of demonstrating the social, economic, and environmental benefits they deliver through their activities and that these clearly link to the Council's own desired outcome for the borough as expressed in the Community Plan;
5. Able to demonstrate how they will embrace diversity, work to improve community cohesion and reduce inequalities;
6. Willing to offer space and support to other smaller local groups;
7. Able to demonstrate how the organisation contributes to the Voluntary and Community Sector Strategy Action Plan, and,
8. Willing to agree to the principles of the Tower Hamlets Compact.

Assessment is in two stages,

Stage 1: Initial light-touch Expression of Interest by the community group.

Stage 2: A more detailed assessment:

1. Testing the skills, knowledge and capacity to run the building safely and legally. An independently assessed legal compliance tool will be used. For buildings where activity space or other facilities are to be hired to other community groups or local residents the preVisible toolkit will be used. Where buildings are used in other ways such as administrative offices or activity space solely to deliver the applicant organisation's services, other nationally recognised quality assurance standards may be acceptable.
2. Testing the business case with a satisfactory and proportionate (to the scale and type of organisation) business plan that demonstrates an evidenced ability to manage the building sustainably over the term of the lease. The business case will need to demonstrate:
  - a. How it engages with the community it serves and seeks feedback on its activities in order to inform strategic planning of new services and changes/improvements to current services;
  - b. Clear evidence of embracing diversity and promoting community cohesion having regard to the Council's Toolkit on Community Cohesion, and
  - c. Clear evidence that the asset will be used efficiently and intensively.
3. Testing the social, economic, and environmental value by demonstrating that its activities and use of the building will deliver clear and evidenced social, economic, and environmental benefits in line with the Corporate Objectives ('core themes') in the council's 2015 Community Plan.

For organisations where their potential 'Community Benefit rent reduction' would be equal to or less than £20k per annum the simple table set out in Appendix D will be used which links social/charitable objects to actual activity to council objectives. For organisations where their potential 'Community Benefit' would be greater than £20k per annum more detail will be required and an external tool will be used. The Your Value tool would be used for this purpose.

The assessment process and procedure are set out at Appendix D.

Where an organisation fails to meet the first test at Stage 2 (quality assurance) but has an assessment which indicates it could meet the required standard within a maximum of twelve months and meets all other requirements, the Council may agree the rent reduction on condition that the organisation meets the required standard

within a specified timescale. If the organisation fails to meet the standard within the specified timescale the rent reduction will be withdrawn. The standard break clause in the lease would give the organisation the opportunity to then surrender the building back to the Council without incurring a premium though it would remain liable for any outstanding debts and other liabilities to the Council.

### **Monitoring and review**

On-going eligibility for the community benefit rent reduction will be reviewed annually for the duration of the lease. The review may include site visits as well as analysis of Annual Reports and Accounts. Annual reports will need to be produced in a timely fashion after the end of the organisation's financial year and will need to contain a section on how they have delivered their community benefits, giving clear details on activities undertaken throughout the year and how these are related to the social/charitable objects of the organisation and the Council's strategic priorities.

If, following the review, an organisation is no longer providing the community benefit for which the rent reduction had been awarded, it will no longer receive the rent reduction and will be required to pay the full rent. If the organisation subsequently considers that it is providing a community benefit, it will need to reapply for the rent reduction.

Where an organisation receives more than £20,000 rent reduction per annum it will be required to submit a performance report every six months for the duration of the lease. Notwithstanding any other provision within the policy, no organisation shall receive a rent reduction where the total of grant funding received from the state (including the any rent reduction) over any rolling three fiscal year period exceeds the State Aid threshold (currently 200,000 euros).

### **Rent Reduction Agreement**

Organisations granted a rent reduction will enter into a grant agreement which will sit alongside but be separate from the lease. This agreement will set out the amount of rent reduction and the terms on which it is given. It will also set out the monitoring requirements.

Where an organisation is given a rent reduction conditional on achieving a satisfactory quality standard, the grant agreement will be for the term agreed for the organisation to achieve that standard, not the full lease period. It will be extended for the full lease period if the organisation achieves the required standard in the specified timescale.

### **Exclusions**

A number of categories of organisation are ineligible for rent reduction and are therefore excluded from applying.

1. Day Care and Playgroups - It is recognised that many of these groups are providing services where the Council is required to ensure there are sufficient such facilities available. In many instances parents are also receiving childcare allowance. However, by not charging a rental, the cost of providing this care remains hidden. The Council's Integrated Early Years' Service provides a range of support and is developing options that will include support for those nurseries and playgroups affected by this policy;
2. Faith groups – buildings used solely for religious services or other services limited only to the congregation will pay full rental value based on the permitted use. This is the current practice for a number of the buildings that are solely used as faith buildings. This will not prevent an allowance being made for parts of the building that are made available for use by other members of the community or general community use. Faith-based organisations, not occupying a place of worship and providing general community use, will be eligible to apply for the community benefit rent reduction;
3. Organisations who are considered to be wholly engaged in economic activity, as set out in Appendix B. Organisations where there is a mix of economic and community benefit may be eligible for partial rent reduction as set out in Appendix C;
4. Organisations whose rent is met in full through their current Council funding;
5. Organisations that have a lease of less than three years and longer than five years;
6. Organisations which only pay a ground rent, and
7. Organisations with any other agreement with the Council which is not a standard lease as set out in this policy.

## Stepped Rent Lease Agreements

A stepped rent arrangement is a mechanism to give a transitional period for a rent increase to take effect. In essence, the level of rent rises over the period of the lease at times and at levels agreed at the beginning of the lease. The steps reflect the low start based on the full market rent and increase to the market rent in the final year of the lease.

In a commercial setting the principle is that the equivalent to full rent payments are made over the course of the term but stepped to make it less of a financial burden in the early years when a business may be starting up. Where the lessee is a VCS organisation the value of the community benefit it provides will be acknowledged by the Council through an element of subsidy incorporated into the stepped rent arrangement.

The arrangement the Council is proposing is an annual increase over the period of the lease. The starting point would be the current rent plus 30% of the increase in year one with incremental 20% rises so that the final year would reflect 100% of the increase, as illustrated below. The effect of providing this transition would be to give a rent subsidy over the period of the lease of up to 32%.

Where the rent has previously been a peppercorn or there has been no formal lease, the increase will actually be the new rent. For the purposes of the illustration below it is assumed a lease is already in place with a rent of £1,000 per annum. The new rent at renewal is £8,000, an increase of £7,000

Year	Rent payable	% of rent increase	Initial rent	Incremental increase	Saving on market rent
Year 1	£3,100	30%	£1,000	£2,100	£4,900
Year 2	£4,500	50%	£1,000	£3,500	£3,500
Year 3	£5,900	70%	£1,000	£4,900	£2,100
Year 4	£7,300	90%	£1,000	£6,300	£700
Year 5	£8,000	100%	£1,000	£7,000	0
Total					£11,200

This example is for illustrative purposes to demonstrate the principle and could vary according to the circumstances and lengths of individual leases.

The stepped rent arrangement is intended to help support organisations in the transition from a subsidised or zero rent to a market rent. However, organisations are expected to be able to demonstrate some level of self-sufficiency. While these proposals set out proportionate payments, the Council is considering whether it would be appropriate for a de minimis rental level of £2,000 which organisations would be expected to pay even if the calculation of their initial step rent was lower.



## **Criteria**

Stepped Rent will only be considered where an organisation is excluded from the Council's rent reduction scheme. It will not be considered where an organisation is eligible for the rent reduction scheme but fails to meet the organisational and community benefit criteria.

Each case will be considered on its merits but the organisation must meet the same organisational and governance requirements as required for the rent reduction scheme and the premises not used for commercial purposes.

## **Application Process**

The application process will follow the same format as for the rent reduction scheme with the opportunity to submit an expression of interest being offered with the offer of a lease. The initial and, where appropriate, detailed assessment will offer the opportunity of appeal to the rent reduction appeal panel for a final decision.

## **Reporting**

Where the Council agrees a stepped rent, the decision will be reported alongside the reporting of rent reductions to the Grants Determination Cabinet Sub-Committee for information.

**Economic Activity**

By providing a rent reduction the Council would be reducing an organisation's cost base and, through this subsidy, potentially giving it a competitive advantage in the market place (including when bidding for a contract or competing for income from other sources).

The Council in exercising its functions and spending public funds is required to act in a fair and reasonable way. As such, granting a subsidy to organisations who engage in wholly economic activity and who occupy a community building a rent reduction would have the effect of potentially distorting competition. This may reasonably be considered to conflict with the public law principles of fairness and reasonableness.

Whether particular community groups who apply for a rent reduction are considered an organisation engaged in economic activity will be for consideration on a case by case basis. Where an organisation is engaged in both economic and community activities, Appendix C provides for the method of determining a level of rent reduction which is proportionate to the level of community activities delivered.

### Proportionate Rent Reduction

The rent reduction policy currently excludes organisations that are considered to be engaged in economic (i.e. commercial) activity on the basis that, notwithstanding that the State Aid rules would not apply given the de minimis level of subsidy, it may be considered unreasonable or unfair for the Council to subsidise such organisations simply because they occupy Council-owned buildings, the effect of which may be to potentially distort competition in a particular market. However, this does not take account of organisations who deliver both economic and community activities.

The proposals agreed in November 2016 acknowledged there had been some discussion as to whether the rent reduction could be applied proportionately where there was some community use ancillary to the economic activity. However, because of the complexity of such arrangements and the difficulty in administering them, the Council decided not to adopt that approach.

The extension of the scope of community use and potential eligibility for rent reduction has highlighted this issue again. There are a number of premises now brought within the scope of the rent reduction scheme where there appears to be a mix of economic and community activity. While there remains a strong argument against introducing a complex mechanism for applying a proportionate approach, the Council is now considering whether there is scope for a simple proportional assessment.

A simple assessment could be based on an agreed standard proportion of community use, calculated either in time or in space used. The qualifying eligibility threshold could be applied either by floor area or by time actually used, solely applied to activity which has community benefit.

Two thresholds are suggested. The first is where a building is mainly used for activities considered to be 'economic' but which may also be used for a limited amount of community benefit activity, in the evenings and at weekends for instance. The second is where there may be a mix of use at the same time and a significant proportion of space is used for community benefit activity.

The proportion may be calculated by the organisation seeking rent reduction either by:

3. Activity space which is devoted to community benefit activities (activity space excludes common areas and staff kitchen facilities but will include kitchens which are ancillary to activity rooms), or
4. Available opening time devoted to community benefit activities (time where both take place will be considered economic activity).

In the current scheme, the standard rent reduction where a building is exclusively used for community benefit activity is 80%. The suggested rent reductions for mixed use are;

3. 40% rent reduction where the use for community benefit activity is 50% – 99%, and
4. 20% rent reduction where the use for community benefit activity is 25% – 49%.

So if the market rent for a building was £10,000, the lessee would pay:

£2,000 if the building is used solely for community benefit activity;  
£6,000 if the building is used over 50% for community benefit activity and  
£8,000 if the building is used over 25% for community benefit activity.

To qualify for a proportionate rent reduction, organisations which undertake some economic activity must be able to meet the criteria set out in the rent reduction scheme for their community benefit activity.

5. The lessee can meet organisational standards criteria set out in rent reduction scheme
6. Non-economic activities meet the community benefit requirements set out in the rent reduction scheme
7. Either a proportion of activity space is devoted to community benefit activities (activity space excludes common areas and staff kitchen facilities but will include kitchens which are ancillary to activity rooms), or
8. A proportion of available opening time is devoted to community benefit activities (time where both take place will be considered economic activity)

Annual monitoring of community benefit will include confirmation that the proportion remains as initially agreed or more.

In ensuring that the State Aid rules are not invoked, a full account of an organisation's receipt of state funding must be included in the assessment process. Under no circumstances can the totality of state funding (including any rent reduction) exceed 200,000 euros (or such other amount as dictated by the European Commission from time to time) over a rolling three fiscal year period per organisation.

Additionally, as part of the assessment process, analysis will be undertaken of the organisation's costs and expenses. The level of rent reduction given must not exceed the proportionate level of costs or expenses incurred by the organisation (over-compensation) such that the organisation would be generating a profit from the subsidy.

### Assessment Process and Procedure

#### Outline of the Assessment Procedure for 'Community Benefit rent reduction'.

The Assessment process allows both the Council and voluntary or community sector organisation, to properly investigate whether the organisation applying for the 'Community Benefit Rent Reduction' meets the eligibility criteria, standards, is legally compliant, can manage the asset well, will contribute to local wellbeing and the Council's strategic priorities and is financially sustainable. The process will be supportive, flexible and proportionate to the scale of the proposed reduction.

##### Step 1 – Offer of lease (as per the agreed council process for the letting of council assets)

- Community Group secures the offer from Tower Hamlets Council of a 3 to 5 year lease at Market Rent.

##### Step 2 – Expression of Interest for 'Community Benefit Rent Reduction'

- Expression of Interest for a 'Community Benefit Rent Reduction' submitted by the community group.
- On receipt of the Initial Expression of Interest a council link officer (from the Third Sector Team) working with the CVS, will be nominated as the contact person for throughout the process who will, at this stage review the EOI application and any documentation received. If this application and documentation appears to provide a *prima facie* case for offering a 'Community Benefit Rent Reduction' they will then arrange to meet with the organisation and explore their application more fully. If the organisation's Expression of Interest does not meet the criteria to be eligible to apply for the Community Benefit rent reduction the link officer will write to the organisation setting out the reasons that their EOI was not approved. The organisation will have the opportunity to ask for the decision to be reviewed by the Council and the Appeals Panel will review the decision.
- For those organisations that are considered eligible to apply for the Community Benefit Rent Reduction, the meeting arranged by the link officer will be to discuss the full requirements of the standards the organisation will need to meet so they are clear from the outset of what is involved; the link officer will note and discuss any particular challenges the group might face in meeting the standards and will confirm the support available from THCVS or another relevant body as appropriate; they will note from the organisation any information that the council will need to supply to enable them to complete the required work such as figures for utility usage or other costs relevant to the business plan;
- If they feel the application does not merit progressing the link officer will give full feedback to the group. This provides learning not just to the group but also for other groups who are thinking of applying. Accessibility, transparency and accountability throughout the process will be key.

- Following the meeting with the applicant the appointed link officer will make a report to the Assessment Panel. This will summarise the information gathered to date, identify any potential benefits, needs or concerns, and identify the specific support needs of the applicant going forward if the application is to be progressed positively. A copy of this report will be provided to the organisation and an opportunity offered for them to correct any factual inaccuracies before submission to the Assessment Panel.
- If the EOI is rejected by the Assessment Panel, reasons for the decision will be provided and the community group will have a right of appeal via written representations.

### Step 3 – Meeting the Standards for ‘Community Benefit Rent Reduction’

- If the EOI is accepted then the next stage is for the organisation to demonstrate that they meet the eligibility criteria set out in the policy for being offered a ‘Community Benefit Rent Reduction’:
  - Testing the skills, knowledge and capacity
  - Testing the business case
  - Testing the social, economic, and environmental value

Throughout this stage of the assessment process the council link officer will remain in regular contact with the organisation, encouraging and motivating the group, providing guidance on how to meet the criteria, signposting to help and support as required, and helping the group to access information they may need from the council.

- To **Test the skills, knowledge and capacity** the [preVISIBLE](#) tool will be used. [preVISIBLE](#) is a nationally available legal compliance tool developed originally by Community Matters and now hosted by [Advising Communities](#). Once the organisation has completed the tool they will need to request and pay for **a review and report to be conducted by the independent national VISIBLE assessors**. The final report will provide not just a clear assessment of the legal compliance of the group but supportive advice and guidance on how to meet the requirements of the law and best practice where those have not been met.
- A timetable will be agreed with the organisation to provide sufficient time to deal with any issues raised by the [preVISIBLE](#) report before it is submitted to the Assessment Panel.
- To **Test the business case** a completed business plan will need to be provided by the group. A standard format will be required from all groups though some flexibility will be exercised where a group already has a well developed business plan in an alternative format so long as it can be shown that it essentially covers all aspects of the standard format. The business plan should be proportionate in scope and detail to the size and scope of the organisation’s operations.
- To **Test the social, economic, and environmental value** whilst keeping the assessment process proportionate to the size and scope of the organisation a two-tier process will be used. For organisations where the potential value of the ‘Community Benefit Rent Reduction’ they are applying for is equal to or less than £20K it is recommended that a

simple table linking charitable/social objects of the group to their activities and in turn linking these activities to the council's strategic priorities be used.

For groups where the potential value of the 'Community Benefit Rent Reduction' they are applying for is greater than £20K the independent [Your Value](#) tool will be used. This tool was developed by Community Matters to help community groups demonstrate their social, economic, and environmental value. It is now also hosted by Advising Communities and cost £100 including VAT to set up an account for 1 year.

#### Step 4 – Assessment and decision to award a 'Community Benefit Rent Reduction'

- Once the community group have provided a *pre*VISIBLE report (with a commentary on work done to meet any issues raised in the report), a business plan, and either the Outcomes table or a Your Value report, the council link officer will produce a report and recommendation for the Assessment Panel with regards offering a 'Community Benefit Rent Reduction' with the supporting documentation.
- The Assessment Panel meets and reviews the report and recommendation of the council link officer.
- At this stage the Assessment panel may request further information or work before confirming the 'Community Benefit Rent Reduction'. In this case full feedback will be provided and clear guidance and what further is required to meet the criteria will be.
- If the Assessment Panel makes a final decision not to award the 'Community Benefit Rent Reduction' full reasons will be provided to the organisation. The organisation will have the right of appeal. The Appeals panel will consider and review the decision of the Assessment panel and any further information provided by the organisation and will make a final decision on the award of the Community Benefit Rent Reduction. The organisation will be notified of the Appeals panel's decision in writing.
- The recommendations of the Assessment Panel (and where relevant the Appeals panel) will be presented to the Grants Decision Meeting setting out the reasons and evidence for the decision.

# Community Benefit Rent Reduction Assessment Panel

## Terms of Reference

### Purpose:

Tower Hamlets Council recognises that the local community sector is a valuable and important asset that delivers important services and benefits to local residents. Tower Hamlets Council is committed to ensuring this community value is appropriately recognised and reflected in its community buildings lettings policy.

Recognising that actively investing in the local community sector often represents good value for the public purse and helps Tower Hamlets Council achieve its own social, economic, and environmental outcomes as set out in its Community Plan, Tower Hamlets Council will offer, through a consistent, transparent, and accountable process, a Community Benefit rent-reduction to organisations that meet the Eligibility Criteria set out in the Council's policy.

The purpose of the Assessment Panel is to ensure the fair and transparent application of the Council's Community Benefit Rent Reduction policy and to assess individual applications and make decisions on whether an applicant has met the requirements of the Eligibility Criteria.

### Composition:

The Assessment Panel will comprise the Head of Revenues, the Head of Benefits and a representative of THCVS. The Panel will be chaired by the Head of Revenues.

### Role and Responsibilities:

- To consider and make recommendations on initial Expression of Interests from organisations and the link officer's assessment report;
- To consider and make recommendations on the independently produced *pre*VISIBLE report that tests the skills, knowledge and capacity of the organisation;
- To consider and make recommendations regarding the organisation's business plan;
- For organisations where the rent reduction would be greater than £20k per annum to consider and make recommendations on the *Your Value* Report;
- To request and consider any supplementary information considered necessary to make recommendations;
- For organisations appealing the Grants Decision Making meetings decisions, to provide to the Appeals panel details of the recommendations made by the Assessment panel that resulted in the organisation not being considered eligible;
- To advise the Grants Decision Making meeting on the recommendations made and the reasons for those recommendations, and
- To consider the findings of the annual review process and compliance audits monitoring reports.

### Frequency of Meetings:

The Assessment Panel will meet as and when applications are received and at least twice a year to consider the findings of the annual review and compliance audit.