



Performance and Finance Select Committee

8th December 2008

Report from the Director of Finance and Corporate Resources

For Information

Wards Affected:
ALL

Task Report Three: Community Use of Council owned Buildings

1.0 Summary

- 1.1 This report provides information regarding other councils' leasing policies for council owned properties to community groups. The information is the result of a questionnaire sent out to the appropriate departments that deal with asset management in other councils, and a questionnaire sent out to organisations in the voluntary and community sector. It also draws on information from a 2008 report by the West London Network, as a representative of the voluntary and community sector.

2.0 Recommendations

- 2.1 Members are asked to note the contents of the report.

3.0 Best practice information – some key themes

- 3.1 Councils who responded to the questionnaire were: Harrow, Hammersmith and Fulham, Hertfordshire, Hillingdon, Hounslow, Kensington and Chelsea, and Westminster. The report from the West London Network also provided some information about Hammersmith and Fulham, Harrow, Hillingdon, Hounslow, Ealing, and Kensington and Chelsea.
- 3.2 *The leasing policy – Other Authorities*
Most of the councils who responded are charging market rent and then invite third sector groups to apply for a grant. This can be for anything up to 100% of the rent. Some councils outlined that the grant would cease if the conditions of the Service Contract were no longer met.
- 3.3 *Links to the Corporate Strategy*

Most councils who responded have tried to link their leasing policies to their Corporate Strategy objectives, however in some cases this has not been possible because the occupancy of community buildings is historical and therefore less directly linked to more recent Corporate Strategy objectives.

At one council, there is certain criteria that needs to be met before a group is allocated premises, which includes that the group must assist in the delivery of the Community Strategy and LAA priorities and targets; demonstrate the capacity to deliver services (e.g. management resources, sound financial management, local residents on the Management Board, etc); demonstrate how users and residents are involved in the design and delivery of its services; have a capacity for innovation and demonstrate creative service design; and demonstrate a commitment to the Value for Money agenda and identifying and delivering efficiencies.

Another council assesses third sector groups' bids for properties through similar criteria, including conditions such as that youth organisations must demonstrate the involvement of young people in their decision making, and that the council will have access to all activities for monitoring purposes.

The Leasing Policy – Brent Council

At Brent, a previous task group by Overview and Scrutiny on voluntary sector grants recommended that the allocation of grants are better linked to the Corporate Strategy, and this was implemented. The difficulty is there is a lack of ownership and no direct link between allocation of grant support and leasing arrangements.

3.4 *Specific clauses inserted into leases – Other Authorities*

One example of a specific clause that has been included in leases to ensure their smooth operation is a break clause, inserted in case the tenant does not receive their grant.

A council who responded gave an example of a one-off innovative clause that they inserted into an individual leasing arrangement, whereby a voluntary organisation moved into a newer private property, which the council invested in renovating to make it useable. The council inserted a clause in the lease contract with the new landlord which stated that if this voluntary organisation left the property within the first fifteen years of the lease, the council would have nomination rights whereby they could name the organisation that would become the new tenant. This ensured that the council would get suitable return on its investment.

Specific clauses inserted into leases – Brent Council

Brent Councils policy, if a tenant is paying less than the open market rent because they have a grant, is to grant leases which are no longer than 7 years (less three days). The leases are also contracted out of the security of tenure provisions of the 1954 Act. The leases also contain break clauses after three years. The organisation would also have to enter into a collateral grant agreement with the Council agreeing to meet targets or having certain

outputs which meet the Council's objectives.

3.5 *Responses to the Quirk Report on asset transfer*

Brent is currently already undertaking asset transfer in practice, as leases are intermittently granted for 25 or 99 years. The longer leases already provide the community organisations with the type of tenure that is often required in order to successfully apply for funding grants. Further, the Council has disposed of property to other bodies for less than market value when it is deemed that there are benefits to the Council and/or community in doing so. Brent's response to the Quirk report is that the qualitative, one-off examples provided in the report do not provide concrete evidence of the suitability of asset transfer. Therefore Brent is undertaking actions to institute guidelines as to where asset transfer will be considered. The presumption is against asset transfer at this stage, until after this has been completed.

Firstly, it is carrying out a full audit of the properties, which will enable the council to identify which properties could be considered for asset transfer. Requests or proposals for asset transfer are to be considered once the property audit is completed, although in certain cases requests or proposals may need to be considered in advance of this. Following the property audit, the next step will be to develop a clear and transparent method of evaluating property in order to make a choice whether to dispose of it.

Most councils who replied have responded positively to the Quirk report and are currently in the processes of assessing their response to the Quirk report, and some have even commissioned consultants to review their current practices and the way it works with the voluntary sector in relation to property and leasing arrangements. Some councils raised the issue of the requirements of Comprehensive Area Assessment from 2009 with its new emphasis on engagement with the voluntary sector. Some councils stated that they would like to take part in asset transfer, but that the property portfolio that they have are not suitable for it, and some are intending to use Big Lottery Fund grant awards to enable asset transfer.

The West London Network (WLN) of voluntary and community organisations (2008), of which BrAVA is a member, carried out some research which found that within the third sector there are concerns that the Quirk report will be used as an excuse for boroughs to divest themselves of poorly maintained facilities and to pass the responsibility to community groups who may be unable to improve them and any asset transfers should be done sensibly, as a genuine opportunity to improve community access.

3.6 *Voluntary resource centres*

Brent Council, together with Brent Association for Voluntary Action (BRAVA) is looking at the possibility of a voluntary sector resource centre which would be run and managed by the voluntary sector. It would bring together a range of voluntary sector organisations and although the council may not be ultimately involved in the management of the property, it will have a role in ensuring that the organisations that occupy it operate for the benefit of the wider community.

In response to our questionnaire, several councils highlighted that they have voluntary resource centres: Harrow (The Lodge), Hillingdon (Key House), Kensington and Chelsea (Canalside House), and Ealing (Ealing Community Resource Centre). A similar model is being considered by another council, where there would be two to three sites that are suitable for flexible usage across many organisations, for both tenancies and to provide the base for groups' outreach work.

The WLN research acknowledged concerns in the voluntary and community sector about sharing premises but stated that the third sector needs to make the very best use of scarce resources and in the future will need to be prepared to work co-operatively, and this may mean rethinking their reluctance to share. The WLN report highlighted the many benefits arising from the sharing of community premises and there are lots of ways in which premises can be shared, some of which have been going on for many years.

- 3.7 *Support and advice for voluntary groups on managing properties commercially*
The responding councils generally provide support and advice on how to manage properties commercially on an informal basis. One council offers free training to community groups on managing a community centre.

External to the councils, there are some support and advice services available. For example one London borough has an independent charity which provides information, support and networking opportunities to voluntary and community groups, including property advice. The charity is independent of the authority but is grant funded by it. Some councils provide funding for umbrella organisations which provide capacity building advice for the voluntary groups which they support. The councils typically provide access to these external agencies as requested and also via links on their websites.

- 3.8 *Feedback from the voluntary sector about leasing arrangements*
Overall, there has been limited feedback from the voluntary sector to councils on their leasing policies. The report by the West London Network gives a clear sense that the voluntary sector would value having one point of contact for their leasing and property enquiries.

Feedback to recent Brent Council Questionnaire

Six questionnaires were returned from approx. 40 community organisations contacted with a request to participate. In general the comments were specific to their situation and did not address the more strategic scope of this review.

As an example the suggestions and comments raised were as follows:

A request to pay monthly by direct debit

A request for regular removal of graffiti from adjoining buildings

A request for low cost insurance – especially building and public liabilities etc.

A request that the council find a supplier of gas and electricity through the Council's bulk buying system,

A request for "help with maintenance", it is not clear whether the request is for advice or for the Council to take over maintenance responsibility.

This feedback probably indicates that the organisations are more concerned with day to day issues and that assistance from the Council is required in order to address longer term matters.

A presentation to the Voluntary Sector liaison Forum on 25th November 2008 by Joanna Mercer and Richard Barrett re-emphasised the nature of the relationship with the voluntary sector as being primarily one of a landlord and tenant. The questions tended to centre around individual circumstances although the session did also make reference to the interest in the proposed resource centre and availability of space within one particular community centre.

3.9 *Equalities and Diversity*

On the whole, the responding councils take into account equalities and diversity through undertaking equalities impact assessments. Usually decisions are made when properties become available. It is apparent that often leasing arrangements for third sector groups are historical, and therefore can only be reviewed once the lease has come to an end. The equalities impact assessments typically cover diversity and access specifically disability, gender, and ethnicity, and necessary judgment calls are made when a voluntary group representing a specific ethnic group applies for property in order to take into account the potential disadvantage to groups or residents who are, or may feel, excluded by the letting.

One council stated that it evaluates all groups or new groups being set up, who are seeking premises, checking their constitution and membership. Another council uses a specific criterion for the allocation of property to community groups, one of which includes that the group must deliver “added value” benefits, including securing additional funding which ultimately benefits local residents, provide volunteering and employment opportunities, and/or which have a unique understanding of a particular community or user group.

For another council, one of the criteria used in assessing bids by third sector groups for property is that access/membership is not restricted for any reason other than those associated with safety of the law or in order to comply with Licences. Recognition is given to single sex/religious/cultural/ethnic groups provided that their aims and objectives are consistent with the council policies.

Brent Council- Current Procedure

Brent does not have any formal approach to this issue other than to follow legislative requirements in regard to equality of treatment. In practice the opportunity to make available council space to the third sector is very rare and similar to the above experience decisions are taken as and when property becomes available but generally all property is already leased out on terms which date back for some years. Where Community Centre let out space to other parties including other 3rd sector organisations it would appear there is no conditions imposed by the Council to ensure these lettings are in accordance with our corporate or community strategies.

4.0 West London Network Research

The West London Network (WLN) of voluntary and community organisations commissioned a report entitled: 'Towards a Premises Strategy for the Voluntary and Community Sector' (2008). The report made a number of recommendations in response to the views of the voluntary and community sector:

- Creation of a premises database – the report recommends that the WLN takes the lead in developing an on-line resource across West London, where groups can register their premises availability, needs, desire to share etc.
- Encouraging sharing of premises by voluntary and community organisations
- Considering sub-regional based training on owning, leasing and managing premises
- Building local authority relationships to ensure councils clearly highlight the lead officers in these matters and consider how to get best use of existing and potential council owned premises
- Developing external partnerships - exploratory discussions with other partners about developing voluntary sector shared premises in West London
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5.0 Quirk Report One Year On

5.1 After the Quirk report, the *Advancing Assets for Communities* demonstration programme was set up. This was intended to demonstrate the feasibility of community asset transfer. Twenty demonstration areas, each with an assigned Case Manager, were selected in boroughs that had the highest potential and motivation for asset transfer, and support was made available to the local authority and community partners involved. These packages of support included consultancy, independent professional advice, and capacity building workshops. An Assets Core Team (ACT) was also established to provide assistance to Case Managers.

5.2 One year on, the outcomes of *Advancing Assets* are as follows:

- Improved partnerships between local authorities and the community sector, including better communication and flexibility. For example, in the London Borough of Lambeth, a local community group made a formal presentation to Council representatives to bid for community ownership of the Clapham Library. The council is currently reviewing the potential for this sale, and it has shown the importance of adopting flexible strategies in seeking to work with community groups as they re-channel the energy of activism into viable social entrepreneurship.
- Dissemination of messages and tools to overcome the barriers to asset transfer that the Quirk report identified, including the development of best practice case studies, a risk management toolkit, and the provision of learning opportunities. For example, 'Advancing Assets for North Tyneside' provided a seminar for the local authority to help it develop its draft asset transfer strategy, which was then due to be adopted in September 2008.
- A partnership approach has been developed, whereby community asset transfer projects are advanced and confidence in the feasibility of

asset transfer is built, including improved capacity amongst community groups for asset ownership, and financial viability assessments for them. This has resulted in four local authority participants successfully applying to the OTS-funded Community Assets Programme (securing in-principle awards for £3.7m investment in asset transfer projects); five assets have been transferred to community organisations with the programme's support, fourteen pending transfer within the next six to twelve months; and innovation in asset transfer is being explored, around the development of public-private-third sector partnerships as well as using compulsory purchase as a mechanism to effect community asset transfer.

- Forest Heath provides what is set to be a national flagship for asset transfer. The council agreed to sell a 1.64ha site comprising playing fields, an old community centre, and retail unit to Keystone Development Trust below market value, so that the Trust could develop a Community Land Trust (CLT) including 80 to 100 affordable homes, a new community centre, and two new retail units. It will be delivered in partnership with a housing association, and demonstrates what can be done when an entrepreneurial community organisation works with a local authority that shows a positive and mature attitude towards community asset transfer.

5.3 *Advancing Assets* also in its first year has contributed to the growing body of knowledge on asset transfer. Key findings include lessons like the importance of communicating via appropriate messages capable of being understood by diverse audiences; that options are available to local authorities looking to transfer assets, for example gifts/endowments/disposals below market value/asset protection from the open market/leases; and how important it is for the local authority to have ownership of the asset transfer agenda.

5.4 A number of essential ingredients for successful asset transfer have been identified, including trust between the local authority and the community sector; support for legal and professional fees to help develop projects; officers often need to be champions of asset transfer and work in partnership with third parties; risk appreciation on the part of the voluntary sector; and transfers need to be genuinely rooted in local ambition and aspirations rather than in plans for individual assets.

5.5 Some of the main persistent obstacles have also been identified, as well as their potential solutions. These include:

- Politics – there can be a lack of success when there are no champions of asset transfer within the council, or tensions between the local authority and communities when it is discussed. Possible solutions include championing the agenda to raise the level of debate at local level, and also engaging independent and impartial third parties to assist them in producing transparent options appraisals.
- Safeguarding use of assets by the community – local authorities are concerned about how they can ensure widespread ownership of an asset and prevent it from being ultimately controlled by a small group of individuals who are unrepresentative of the general community. Possible solutions to this are ensuring respecting of diversity and inclusivity.

- State of repair – buildings are sometimes old and dilapidated, therefore assets must be rendered viable in order to empower communities effectively.
- Community capacity – local authorities often comment that the community sector lacks capacity to take responsibility for management of assets, hence the authority needs to support capacity building and respect the potential for growth of community organisations.

5.6 The 2008-9 programme is underway, with a further 30 local authorities selected as demonstration areas. It is intended that the programme will devote greater energy to engaging elected Members in recognition of their importance to this agenda and the limited impact on them so far. It will continue to develop guidance and encourage asset transfer, in the hope of making community asset transfer easier, more effective and widespread. A recent publication from DCLG *Managing Risks In Asset Transfer – A Guide*, has been published to assist authorities to manage and minimise risks inherent in the transfer of land and assets to the community sector.

6.0 Financial Implications

6.1 There are no financial implications arising directly from this report.

7.0 Legal Implications

7.1 The task group meeting proposed for January to allow discussion of the legal implications in relation to leases to community and voluntary organisations.

8.0 Diversity Implications

8.1 This is covered in paragraph 3.9.

Background Papers

Carol Coventry (2008), 'Towards a Premises Strategy for the Voluntary and Community Sector' – West London Network.

Corporate Management Team 6th March 2008, 'The Quirk Report: A Response by Brent Council.'

Performance and Finance Select Committee 4th November 2008, 'Task group report two: Community Use of Council Owned Buildings.'

DCLG – *Managing Risks In Asset Transfer – A Guide*

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