

Item No.	Classification Open	Date: 4 th November 2003	MEETING NAME Executive
Report title:		Voluntary Sector and Community Group– Rent & Letting Policy	
Ward(s) or groups affected:		All	
From:		Strategic Director of Regeneration Assistant Chief Executive	

RECOMMENDATIONS

1. Executive reaffirms the policy that
 - a The amount of support given to a large number of Voluntary Sector and Community Groups (VSCGs) occupying Council owned property on favourable or non-defined terms should be quantified and transparently agreed.
 - b All occupation by VSCGs must be formalised by an appropriate written lease or tenancy agreement, reserving the appropriate open market rental value for the property, negotiated by the Property Team.
- 2 Executive instructs officers to devise a more effective administrative process to achieve that as set out in the paper by:
 - a Ensuring that decisions on financial support to VCSGs whether through grants or any implied off set to rent are clearly the responsibility of the service or function for which that group's work is relevant.
 - b Ensuring that decisions on grant support to VCSGs which impact on the capacity of VCSGs to occupy Council property are taken in a consistent way that takes full account of both the needs of the body and the implications for the use of property.
 - c Implementing a phased transition to the new arrangements which avoids undue impact on individual bodies particularly those currently subject to rent reviews.
- 3 Executive instructs officers to report back on those proposals in time for property issues to be taken into account in the next round of grant making decisions:
 - a Having consulted representatives of VCSGs as provided in the Compact.
 - b Providing as full information about the current range of occupation as can be secured.
 - c With costed proposals for providing effective advice to VCSGs about their property matters.

BACKGROUND

- 4 Many of the Council's policies involve support for VSCGs providing non-commercial and voluntary services that require assistance either by direct finance or indirectly through the provision of premises to work from. In order that the scarce financial and property resources of the Council achieve best value it is essential that a policy is adopted to prioritise the demands so that those VSCGs deemed to be the most deserving and providing the most valuable service are targeted for assistance.
- 5 Historically there has been no consistent policy or co-ordinated approach to leases at market rents, some wholly or partly subsidised by rent transfer, to long and short term lettings at no rent at all and in the extreme some "local arrangements" with no formal letting agreement or rent.
- 6 Around 350 VSCGs have been identified as possible occupiers of Southwark owned properties some of which were inherited from the GLC. Work is in hand to clarify the terms, if any, upon which such occupation is based but this is likely to take a considerable period of time particularly where the occupation was originally agreed at a "local" level.
- 7 There have been earlier attempts to regularise the position and for some VCSGs a system of rent offsets has been created in which payments from service budgets are transferred to the property holding account as payment for rent. However these arrangements are partial, not linked to any formal consideration of the priority to be attached to such expenditure and are not sufficiently developed to deal with rent reviews, lease renewals and other changes.
- 8 Difficulties arise when leases fall due for renewal or rent review. The conflict occurs where on the one hand the Council require a market rent and on the other it wishes to avoid the loss of valuable service to the community when the VCSG concerned is unable to afford the increased rent and is faced with eviction.
- 9 The lack of clarity in these arrangements:
 - a. Inhibits proper property management
 - b. Potentially distorts comparisons of costs between voluntary and other providers of some services
 - c. Fails to encourage good business planning by the VSSGs.
- 10 A project by the Civic Trust to develop proposals for buildings occupied jointly by several community groups has been undertaken. This could capitalise on the differing needs of the various groups and the opportunity for sharing of support and other costs. The report of this review is awaited and will be considered separately

PROPOSALS AND FINANCIAL IMPLICATIONS

- 11 It is essential that the decision to provide any support for VSCGs be made by the service department sponsoring that function. It is not one for the Property Team and it cannot continue to be by the accident of historical occupation.

- 12 It is also essential that any occupation of Southwark property by any third party be covered by a formal legally binding agreement that reserves the open market rent appropriate for the property.
- 13 Each Service Department will need to identify and take responsibility for all VSCGs within its functional area for which
 - It currently gives revenue grants.
 - Any rent discount is already given under the transfer arrangement
 - There is any occupation of Southwark Property whether currently subsidised or not.
- 14 It is important to note that any VSCG entering into a tenancy or lease agreement is directly responsible for payment of the rent reserved hereunder even though this may in practice be paid by way of an internal rent transfer. When funding expires or is withdrawn the tenant becomes fully liable. This places both parties in a vulnerable position; the tenant may not be able to afford the rent reserved and the Council could lose valuable income from the date that the funding is stopped until the property is recovered for re-letting.
- 15 In relation to those cases where revenue grants are given directly or indirectly by rent transfer Departments will already have budget provision. In those cases of occupation not covered by current budget provisions Departments will be required to review them to include the true property cost valued by Property and at the same time assess the “worth” of the VSCG.
- 16 Departments sponsoring VSCGs will need to consider whether the rent support transfers should continue. If they wish to cease to make the transfers they will need to coordinate action with Property
- 17 The practical and budgetary consequences will depend on:
 - a. Whether the subsidy is such that the VSCG cannot continue occupation without it or
 - b. Whether and when an alternative occupation could be arranged securing real additional income.
- 18 It is important to have regard to the fact that the occupational costs can amount to far more than just rent. Other costs include rates, insurance, repairs and in some cases service charge. Several cases have arisen where VSCGs cannot afford to carry out substantial repairs to their property when they have covenanted to do so. It must therefore be recognised that this would result in a “hidden” subsidy should it not be enforced and is likely to create an extended void period and capital liability to the council whether the tenant vacates voluntarily or otherwise.
- 19 Apart from direct property costs VSCGs totally dependent on grant funding can be faced with financial hardship simply in regard to the legal process. Legal, surveyors and other professional fees may also need to be taken into account when allocating grants.
- 20 It follows that a high degree of co-ordination is implemented to monitor and control these crosscutting issues.

- 21 The sponsoring department must be aware of and make full provision for all immediate and potential property costs.
- 22 The sponsoring department must liaise with Property on the terms of the lease and the nature and period of the funding in order that the two may be reconciled.
- 23 Property must give early warning to the funding department of any impending rent review or lease renewal in order that provision may be made to cover the resulting increase in rent and importantly any back rent following protracted rent negotiations.
- 24 All new leases should contain an option for the council to determine upon withdrawal of funding. This is obviously a sensitive issue but it would then be akin to a new letting when normal practice would be to assess the financial status of an incoming tenant and its ability to pay the rent and other outgoings for the contractual term.
- 25 It is not possible at this stage to quantify the total amounts involved as officers are continuing work to identify and assess value of relevant cases the majority of which only come to light upon rent review or renewal.
- 26 Officers will therefore undertake further detailed work on the following basis
- 27 **Establishing the baseline:** Where a body currently occupies a property at other than market rent, the amount of the "subsidy" will be identified; added to the rent income account held by Property; added to the budget of the "sponsoring" department and a transfer between the two arranged. These budgets will continue indefinitely, subject to the normal review of the grant making process. There should thus be no immediate or longer term effect on departmental budgets. Departments will be able to drop current subsidy (subject to agreement with property about how and whether the body can continue to pay rent) and reuse the budget for other bodies or other purposes entirely.
- 28 **Dealing with rent reviews:** Any potential rent reviews will be identified for consideration in the budget round ahead of the year in which the review might be implemented. Property will indicate the likely scale of rent the occupying body will pay. The "sponsoring" department will need to consider whether to increase the support to the body as part of the budget and commissioning round. Assumptions about the total extent of additional rent income will be identified separately in the property income accounts. For year 1 (2004/5) there will be a process similar to the baseline for each rent review (ie matching items will be created on both sides of the system). There will thus be no immediate impact on departments' budgets. For year 2 (2005/6) this process could be repeated or we could arrange a gradual transition to a tougher budgeting approach in which the one to one matching is dropped.
- 29 **New bodies or changed circumstances.** Any new or changed occupations will need to be agreed by departments and any subsidy found as part of the normal grant budget for transfer to the property income.

Assistance to the voluntary sector on Property

30 Throughout the dealings Property have with the Voluntary Sector it is clear that many of the bodies do not have sufficient adequate advice about the implications of property transactions. Officers will therefore review whether it would be desirable to create a small budget, possibly to be held by one of the coordinating bodies such as SAVO, to pay for advice and support in key areas of property negotiations.

MANAGING TRANSITION

31 There are currently about 20 problematic cases in hand where occupations need to be regularised, reviewed or renewed. The total annual rents payable will rise by around £80,000 to £100,000 and is likely to require funding.

32 These sums are not crucial to the income assumptions made for the various property accounts but are not covered by current budget provisions. In regard to this year alone Property will therefore:

- a. Determine the current rent payable under normal commercial terms.
- b. Determine the actual rent payment
- c. Assign any difference to a new budget for the relevant department
- d. Assign an equivalent amount as part of the income receivable by the Property Account
- e. Arrange transfers for those sums between the two accounts.

33 In a sense these sums do not represent “real money” and there will be zero impact on the various departmental budgets.

34 In effect the increases will not be initiated until the beginning of the next financial year when the various departments concerned will have to review whether or not to continue funding the VSCG concerned and bear the total cost.

COMMUNICATION AND CONSULTATION

35 It is recognised that in rationalising the Council's approach to the occupation of property by VSCGs there may be concerns over the impact of these proposals. This will need careful handling and a communication plan should be agreed which :

- a. Emphasises the extent of the support that the Council gives and that there is no proposal to reduce that support.
- b. Places the approach in the context of the overall decision making about such groups.

36 There should be consultation with the key voluntary sector bodies under the provisions of the Compact in the light of this paper.

Chief Finance Officer

37 The proposal is welcomed as it seeks to improve the transparency of financial information supporting VSCG support and council property use property decision.

38 The proposals do not have to result in net growth in the Council's budget. The extra property income can be matched to the additional VSCG support if desired.

Lead Officer	<i>Paul Evans, Strategic Director of Regeneration Sarah Naylor, Assistant Chief Executive</i>	
Report Author	<i>Alan Trusler</i>	
Version	<i>FINAL</i>	
Dated	<i>27 October 2003.</i>	
Key Decision?		
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Borough Solicitor & Secretary	Yes	No
Chief Finance Officer	Yes	Yes
<i>List other Officers here</i>		
Executive Member	Yes	Yes
Date final report sent to Constitutional Support Services		