

Item No. 13	Classification: Open	Date: May 19 2009	Meeting Name: Executive
Report title:		Voluntary and community sector asset management strategy	
Ward(s) or groups affected:		All wards	
From:		Strategic Director for Regeneration and Neighbourhoods	

RECOMMENDATION(S)

That the executive:

1. Approves the Asset Management Strategy for the Voluntary and Community Sector (VCS) Property Portfolio (Appendix 1)
2. Approves the Asset Management Plan for the VCS Property Portfolio.
3. Approves the Asset Transfer Policy and Protocols.
4. Re-affirms the Rent and Lettings Policy and agree it will not be reviewed until the VCS strategy has been in place for at least two years.

BACKGROUND INFORMATION

5. The executive approved 'Community Buildings: Next Steps' in October 2007. This report approved the creation of a centralised portfolio made up of council owned property in VCS occupation and Tenants and Residents Association (TRA) Halls, with property acting as managing agent and social inclusion acting as client for the portfolio.
6. The 2007 report required that an asset management strategy, asset management plan, asset transfer policy and asset transfer protocols were developed and presented for executive approval.
7. The 2007 report itself was initiated by the findings of the wider VCS Review which was set up to examine all aspects of the council's working relationship with the VCS. This review identified particular and significant issues with regard to property and it was felt that these warranted further exploration.
8. Both the reviews of the VCS portfolio and the TRA estate were cliented by social inclusion which enabled a joined up view to be taken of both estates. Housing management has now taken on both operational and strategic management for the TRA estate and will continue to consider opportunities for making TRA halls available on a sessional basis for VCS and statutory service delivery, thereby broadening service provision within the community and the accommodation offer to the VCS.
9. Housing management have assessed that they will achieve greater efficiencies by retaining operational management of the TRA estate and that the strategy should sit beneath the overall strategy for Housing assets. Housing Management will ensure that the strategy for TRA halls links to the October 2007 report (Community Buildings: Next Steps) and the VCS Strategy in order that synergies

across these groups of assets can be realised where there is an opportunity to do so.

KEY ISSUES FOR CONSIDERATION

10. This VCS Strategy is based upon the principles for managing and increasing access to community buildings agreed in the 2007 report.
11. In summary, the implementation of the recommendations within this report and the implementation of the VCS Strategy itself and appended documents will:
 - improve the borough-wide accommodation offer to the VCS
 - provide a clear structure of key council personnel for external organisations, members and officers to contact in relation to VCS property issues
 - provide a consistent management approach to council owned property in VCS occupation
 - address a range of liabilities which are currently sitting within this portfolio
 - provide a consistent process for dealing with asset transfer requests
 - build upon the partnership that is developing between the council and the borough wide VCS to develop options for facilities such as hot-desks for VCS organisations, a VCS resource centre and so forth

Current and future management of the portfolio

12. The wider VCS Review and the 2007 report both identified that there is a lack of consistency in approach to VCS occupation of council owned property. This is largely due to ad hoc arrangements over the occupation of properties being made between departments and external organisations in the past. The result can be informal occupation agreements and exceptions from adopted policies such as the Rent and Lettings Policy. The result is two fold: an external perception has developed that an inequality of opportunity is being fostered and the council often finds it hard to take enforcement action where there is no formal occupation agreement in place.
13. As there is no clear lead for VCS property issues tenants, members and officers have no central point of contact.
14. This lack of designated personnel also exacerbates communication issues between property and funding/commissioning departments. This often leads to problems such as rent reviews and funding applications being out of sync so that the potential to include increases in rents in those applications is missed.
15. The lack of centralised control also increases the risks that properties are not kept in good repair and that statutory legislation and regulations with regard to health and safety are not complied with.
16. Centralising the properties into one portfolio with property acting as management agent and social inclusion as client will help to resolve these issues.
17. Additionally it needs to be acknowledged that this is a specialist area within property management. A specialist team can build relationships with the VCS, build up a robust knowledge of the portfolio and current property issues within the VCS, and work with tenants, where appropriate, to make external grant

applications for capital improvements.

18. The VCS currently delivers a range of services within the borough including provision which satisfies the council's statutory obligations (for example youth clubs, adult day centres etc). A specialist team will better understand the complicated linkages between the VCS and Council departments and be better equipped to resolve problems when they occur.
19. It is envisaged that a VCS portfolio manager will be employed within the property department and a VCS liaison officer will be employed to act as client within social inclusion.
20. This model has been temporarily trialed during the review and strategy development stages and has proved to be much more successful than the previous ad hoc arrangements. Relationships between Property and members, the VCS and other departments have improved and a common approach to enforcement issues is evolving.
21. The VCS Strategy also outlines changes that will be made to the everyday management of the VCS portfolio such as information sharing between property and funding/commissioning departments with regard to rent reviews, lease renewals, grant funding, compliance monitoring etc.

Quality of the VCS portfolio

22. The 2007 executive report required officers to commission both a compliance audit and basic condition survey for each council owned property in VCS occupation to establish the level of risks and liabilities across the portfolio. The information collected has been used to inform the Asset Management Strategy, Asset Management Plan and the disposal and investment recommendations contained within this report.
23. The condition surveys suggested that whilst the buildings within the portfolio were in a generally adequate state of repair structurally (with some notable exceptions) there is a significant backlog of repairing obligations, some of which are urgent.
24. The risk to the council is that these outstanding repairs leave its property assets open to an increased risk of disrepair and /or dilapidation which will have an impact on the value and utility of those assets.
25. A compliance audit (which measures the property's compliance with statutory health and safety legislation and regulations) has been completed and a programme of works has commenced to address those gaps which were identified during the audit.
26. Any risk to the health and safety of people working in or otherwise accessing the buildings should be ascribed in the occupation agreement to either the council as landlord or to the tenant. Where the occupation agreement is untraceable or unclear it is sensible for the purposes of risk management to assume that the risk falls to the council. It is also likely that where a tenant is technically responsible but is not making sure the property is compliant, and the council is not taking enforcement action, that there is a risk to the council. The strategy therefore sets out how these various risks will be discharged.

27. There is no doubt that it is difficult to keep up to date with statutory legislation and regulations with regard to health and safety and it should be noted that all the tenants had some certification in place but that none satisfied every requirement. The council has specialist staff and it is suggested that although enforcement is a necessary last resort, the council will work CAS to provide information and support to tenants, such as annual updates and possibly training. This is set out in detail in the strategy.
28. It is difficult to make generic statements about whether the portfolio as a whole is 'fit for purpose'. The VCS is made up of a wide variety of organisations that have very different requirements and generally this assessment should rest with those tenants. However, there are properties within the portfolio which are not fit for purpose on grounds such as they are largely inaccessible to the mobility impaired and the investment required to rectify this would be excessive, that the property offers restrictive accommodation and is largely unadaptable to modern requirements, or that the investment required to meet relevant legislation such as the Children's Act would be excessive.

Rent and Lettings Policy

29. At the October 2007 meeting the executive agreed that the current Rent and Lettings Policy would remain in place at least until the completion of the centralisation of the properties into the VCS Portfolio.
30. This report recommends that the Rent and Lettings Policy should not be reviewed until the VCS strategy has been in place for at least two years.
31. This does not fetter the council from exercising discretion over individual cases to enable the council to take account of exceptional circumstances, where appropriate.
32. The intention is to create a sustainable portfolio of properties. Market rental income allows for a proportion of the income to be re-invested into the portfolio and the specialist team of officers required to manage it successfully.
33. The national emphasis in recent years has been on VCS organisations developing sustainable business plans with less dependency on grant income. Providing subsidized accommodation is income foregone and is, therefore, a form of grant support.
34. Additionally, due to an adverse financial settlement the council has less funds available to support the work of the VCS in the borough. In these circumstances it is essential that competition for the funds which are available is transparent and open to all. Subsidized rents favour those already in council owned accommodation and the reality is that of the 1,800 or so organisations based in, or operating within, the borough only the minority occupy council owned property.

Asset transfer policy and asset transfer protocols

35. The VCS Strategy contains the asset transfer policy and protocols.
36. Asset transfers will generally be 25 year leaseholds at market value. Longer leaseholds will be considered where there is a compelling business case but

there is a presumption against freehold transfers unless the disposal is both at market value and in line with the council's Corporate Asset Management Plan.

37. The asset transfer policy and protocols sit beneath the council's Corporate Asset Management Plan and therefore all decisions taken must be compliant with the Corporate AMP.
38. The council has completed many asset transfers in the past and will continue to do so in appropriate circumstances. However, it should be noted that the council manages its assets on behalf of all the residents in the borough and that there must always be a clear, demonstrable benefit in transferring the asset *over and above the benefit to the recipient organisation*.
39. It should also be noted that it is reasonable for the council, *as a matter of general principle*, to maximise the revenue it receives from its assets and to dispose of assets via the open market as all revenue and/or capital received supports Council services.
40. In addition, the ambition of the VCS Strategy is to develop a self sustaining portfolio with a range of permanent assets that allow for future flexibility and adaptation to changing VCS needs, therefore the asset management plan aims to protect the VCS portfolio against:
 - fragmentation of the VCS portfolio
 - the loss of strategically important assets
 - any disposals which limit future options and flexibility
 - the retention of assets which represent a disproportionate drain on the available resources
 - 'cherry picking' of the portfolio's best assets
41. The asset transfer protocols provide a clear and transparent process within which the Council will consider all asset transfer requests.
42. The process includes criteria which recipient organisations must meet. These include basic criteria such as the applicant organisation must meet the council's conditions of grant aid, the applicant must have sufficient resources to maintain the asset and that the applicant must have a robust business plan in place.
43. Asset transfers will not be considered where the primary aim of the transfer is to provide financial leverage for the applicant organisation.

POLICY IMPLICATIONS

Corporate Plan

44. Like its predecessor, the council's Corporate Plan 2009 - 2012 (draft) fully acknowledges the importance of active and effective community engagement and close partnership working with the Voluntary and Community Sector to the borough.
45. This includes helping communities to support themselves, making services more accessible and responsive to community needs, promoting participation at community level, and building strong communities.

46. The right portfolio of assets, managed in a way that allows for future change in Southwark's communities and their aspirations will provide the platform to achieve these objectives in a way that makes the best use of the council's scarce resources.

Corporate Asset Management Plan

47. The corporate Asset Management Plan approved by executive on May 20 2008 sets the council's overarching approach to the management of its property assets, how these assets can most effectively be arranged in support of Southwark's core objectives and in helping to deliver key corporate outcomes. The VCS Asset Management Strategy has been developed directly from the principles established in the corporate Asset Management plan.

Community Impact Statement

48. This report and the attached VCS Strategy and related documents set out to introduce clarity, consistency and equity in the way the council uses its property portfolio to support the VCS in Southwark.
49. It aims to support the VCS in the borough whilst also ensuring that the employees, visitors and users of VCS services based in council owned properties can be assured that those properties are compliant with statutory legislation and regulations with regard to health and safety.
50. The implementation of the VCS Strategy, attached documents and the recommendations within this report will improve the accommodation offer to the VCS in the borough.
51. Measures have been included to mitigate against any negative impact upon specific VCS organisations.
52. The transition to market rent for community nurseries in council owned accommodation could, in some circumstances, impact upon the service users (e.g. parents) as the nurseries may decide to pass the increase in costs on to parents. Community nurseries often provide affordable childcare for those with low income and no recourse to public funds and an immediate increase in childcare costs would cause hardship for this group of parents. It has therefore been agreed that any change from nil rent to market rents for community nurseries will be staggered over a reasonable period of time (not less than 3 years) during which the organisation will receive business support from children's services officers. It has also been agreed that a project team of Property and children's services officers will be established to support this process.
53. Officers will consider how the council can best support its VCS tenants to meet their own outstanding repairing liabilities and duties under statutory legislation and regulations and revert to the Executive.
54. Officers will also consult with the VCS via the Southwark VCS Infrastructure Group: Premises Sub-group (serviced by Community Action Southwark) to establish how the council can support the VCS in the borough to develop a voluntary sector resource centre, including hot desking space and shared office accommodation for smaller groups, and revert to the executive.

RESOURCE IMPLICATIONS

Affordability

55. The proposals set out in this report seek to deliver a cost neutral operating model for the VCS portfolio..
56. There are immediate liabilities within the portfolio, such as the outstanding repairs highlighted in the condition surveys. Subject to the agreement to this strategy, officers will need to consider potential funding opportunities for any such investment, including potential income generation and earmarked receipts from disposals
57. This strategy requires a dedicated portfolio manager to manage the VCS portfolio. It is proposed that this be funded from a 7% management fee (slightly higher than the 5% charged on the commercial portfolio). Additional management costs will need to be resourced from additional income, efficiencies within the property services division or elsewhere or from existing budget provision. Officers will continue to confirm more precisely this funding source.
58. A new post of VCS liaison officer within social inclusion as the client is also proposed. This will be funded from existing social inclusion budgets.
59. It is also proposed that a charge of 15% will be made to pay for repairs and maintenance of buildings in this portfolio. This will help to ensure that buildings are kept in good order. Further detailed analysis is required to identify existing budget provision within departmental budgets. Any shortfall will need to be met from additional rental income or from other sources.
60. Detailed financial analysis is already underway with the support of strategic directors and any changes to budget provision will be reported to the executive.

Consultation

61. Consultation on property issues began within the wider VCS Review.
62. Representatives from SAVO and SCCF (now both merged to form Community Action Southwark) and representatives from a range of Council departments sat on the wider VCS Review Project Board and the VCS Review Implementation Group. CAS was then consulted on the 2007 Community Buildings: Next Steps report and made a supportive deputation at the committee meeting. Officers from both property and social inclusion have regularly attended the VCS Infrastructure Group: premises Sub-group which is serviced by CAS and this group is generally supportive of the contents of this report and attached documents. This group has also worked with officers to distribute and analyse the questionnaires which have been sent to all VCS groups within the borough known to the council and/or CAS and has also provided feedback on current VCS property issues within the borough.
63. The VCS Infrastructure Group: Premises Sub-Group and CAS have fed back that they are supportive of the strategy and would like to see its recommendations enacted. However, they are disappointed that the section on asset transfer includes a general presumption against the transfer of council assets. They agree that asset transfer should only occur where there is a robust recipient

organisation and demonstrable evidence that the transfer will produce increased service benefits for residents of the borough, but would nevertheless like the wording of the policy to be more positive.

64. Officers from property and social inclusion have consulted regularly with the executive member for citizenship, equalities and communities and the member for resources.
65. Officers have consulted with other council departments.
66. The draft strategy was presented to CMT on February 3 2009 and again on March 25 2009.
67. Officers will continue to attend the Voluntary Sector Infrastructure Group: Premises Sub-group as part of the on-going management regime of the portfolio and to provide support to the development of the VSC Resource Centre, where necessary.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Finance Director

68. The recommended strategy involves the creation of a centralised portfolio of council owned properties in VCS occupation under the management of property services within the regeneration and neighbourhoods department. It is proposed that income from the retained estate will be used to fund the management and general maintenance of the portfolio and it is a requirement that the strategy is cost neutral to all council directorates and to the Housing Revenue Account.
69. The resource implications in the report identifies that further work is required to identify the precise sources of funding for the additional management fees and for a higher level of repairs and maintenance. Any budget issues arising from the analysis in progress will need to be reported to the Executive as necessary.
70. The finance director supports the consistent move towards market rent for all council properties and recognises the need for consideration of the wider impacts of voluntary sector grants.

Strategic Director for Legal and Democratic Services

71. With regard to asset transfer, where properties are held within the commercial property portfolio the council's disposal power is contained in Section 123 of the Local Government Act 1972 which permits a local authority to dispose of land without ministerial consent provided it is for the best consideration reasonably obtainable.
72. Properties held under the council's housing portfolio are subject to the terms of Section 32 of the Housing Act 1985 which provides that such land can only be disposed of with the Secretary of State's consent. A number of general consents have been issued under the General Housing Consents 2005.
73. The council has the power to acquire new leasehold or freehold properties by virtue of Section 120 of the Local Government Act 1972 which provides that a local authority may acquire by agreement any land for the purposes of any of

their functions or the benefit, improvement or development of their area, notwithstanding that the land is not immediately required for any such purpose, and that until such time, it may be used for the purpose of any of the council's functions.

74. In addition, the council has general "well-being powers" under Section 2 of the Local Government Act 2000 which enables it to do anything it considers is likely to achieve the promotion or improvement of the economic, social or environmental well-being of its area.

Strategic Director of Children's Services

75. The strategic director of children's services (DCS) welcomes the outcome of this review. In particular, the proposal to rationalise support for the VCS with regard to accommodation issues so that there is a single team with clear accountability is welcomed. Additionally, the proposal to bring all VCS groups onto a common footing in respect of their rent and leaseholder agreements is supported strongly.
76. The DCS does have some concerns about the potential impact of the changes on a small number of VCS providers who fall within the category "community nurseries". These were set up many years ago with a specific remit to provide low cost childcare to disadvantaged families. The legislative framework for provision of early learning and childcare has changed radically and the "community nurseries" need to change to fit this new framework but this takes time and any destabilisation of these groups has the potential to lay additional responsibilities and therefore costs onto the council. I note the provisions within the community impact statement and welcome the fact that vulnerable groups will be supported during this transition time. This is particularly so where the council is provider of last resort for a children related service and therefore may need to step in to provide where others go out of business and no alternative provider can be found.
77. In agreeing this proposal, the council needs to recognise the need to revise its policies in respect of support provided for VCS groups across the council. This is likely to mean that within children's services, the policy of supporting groups through grant funding will need to be fully replaced with the practice of commissioning places at full cost for those least able to afford fees. This in turn will mean that VCS providers will need to charge a full recovery fee for all children irrespective of their family circumstances. Families with no recourse to public funds could be affected adversely by this change.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
N/A		

APPENDICES

No.	Title
Appendix 1	Strategy For the Future Management of Council Owned Properties Occupied by the Voluntary and Community Sector

AUDIT TRAIL

Lead Officer	Richard Rawes, Strategic Director of Regeneration and Neighbourhoods	
Report Author	Pascale Rosenbloom, Projects and Partnerships Manager	
Version	Final	
Dated	May 8 2009	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director for Legal and Democratic Services	Yes	Yes
Finance Director	Yes	Yes
Strategic Director of Children's Services	Yes	Yes
List other officers here		
Executive Member	Yes	Yes
Date final report sent to Constitutional/Community Council/Scrutiny Team	May 11 2009	

APPENDIX I