

Cheltenham Borough Council

Cabinet – 13 December 2016

Award of rent support grants to Cheltenham's Voluntary and Community Sector Organisations

Accountable member	Cllr. Rowena Hay, Cabinet Member Finance
Accountable officer	Mark Sheldon, Director of Resources
Ward(s) affected	All
Key/Significant Decision	Yes
Executive summary	<p>As part of Cheltenham Borough Council's wider ambitions to support a thriving voluntary and community sector, the council has enabled VCS groups to rent its properties through offering a rent support grant scheme.</p> <p>The current policy was adopted in July 2010 with the assessment scheme being approved by Cabinet in March 2011 which permits VCS groups to apply for a rent support grant either at start of a lease or at the time of a rent review. Currently, applications are scored against five criteria with the amount of subsidy awarded being proportionate to the degree to which the applicant meet the five criteria.</p> <p>Through the current scheme, and previous rental support arrangements, the council is now supporting 16 VCS groups though with an effective total rental support of c.£200,000 per annum</p> <p>As the current assessment scheme was based on the council's corporate priorities at that time, this report sets out proposals to update the assessment scheme so that it is more in-line with the council's current priorities and those of its partnerships.</p>
Recommendations	<p>That Cabinet RESOLVES:</p> <ol style="list-style-type: none">1. To terminate the previous policy "<i>Policy for Property lettings and disposals to the third sector, voluntary and community groups</i>" (Agreed by Cabinet in July 2010) and the associated Assessment Tool and Matrix (Agreed by Cabinet in March 2011) from the date of this meeting.2. To implement as from the date of this meeting the updated Policy for Property Lettings and Disposals to the Third Sector, Voluntary and Community Groups, attached as appendix 2.3. To adopt a new assessment scheme (as detailed in this report and in appendix 3) for the award of rent support grants to VCS organisations from the date of this meeting.

Financial implications	<p>The new scheme is expected to reduce the total grant subsidy of circa £200k, currently given to voluntary and community sector groups by the council, subject to the number of future successful applicants. This will therefore have a positive impact on the council's medium term financial strategy.</p> <p>Contact officer: Sarah Didcote</p> <p>Sarah.didcote@cheltenham.gov.uk, 01242 264125</p>
Legal implications	<p>Under S123 Local Government Act 1972, leases for a term greater than 7 years must be for the best consideration reasonably obtainable. The only exemption to this is where the letting at less than best consideration contributes to the 'social, economic or environmental well-being' of the council's area or residents. Whilst leases for a term of less than 7 years do not have to be for the best consideration reasonably obtainable, the council must still have regard to its general fiduciary duty.</p> <p>Under the new proposal, tenants will be responsible for payment of rent at open market value. This responsibility will continue if the rent support grant expires or is terminated.</p> <p>Legal advice was sought on whether this policy would fall foul of rules against State Aid. State Aid occurs when financial assistance is given by a public body which favours certain organisations and distorts or threatens to distort competition between Member States of the EU. The advice is that the letting at an undervalue to community organisations will not be State Aid if:</p> <ul style="list-style-type: none"> • The proposed tenant is a not for profit organisation; • The use of the building will be for a community purpose; and • The activities carried out by the organisation(s) are of local interest only. <p>Contact officer: Rose.gemmell@tewkesbury.gov.uk, 01684 272014</p>
HR implications (including learning and organisational development)	<p>None as a result of the report.</p> <p>Contact officer: Julie Mccarthy@cheltenham.gov.uk</p>

<p>Key risks</p>	<p>If the Council is overly generous in subsidising tenancies with grants, this will result in reduced income from assets and cumulative impacts on the Council's medium term financial strategy.</p> <p>However, if the Council is too restrictive in the way it allocates rent support grants, this may put a financial strain on the organisation with the consequential result that the council's objectives in the communities are not fulfilled or are seriously curtailed.</p> <p>If appropriate and transparent grant agreements are not put in place, tenants may be more difficult to remove if they fail to meet the terms of any subsidised letting arrangement, with the potential for associated adverse publicity for the Council;</p> <p>If prospective tenants cannot demonstrate a robust business plan when taking on property commitments from the Council, there is an increased risk of failure and associated financial and reputation impacts for the authority.</p> <p>If the grant expires or is terminated, tenants will remain responsible for payment of rent at market value. This may result in an increase in arrears.</p>
<p>Corporate and community plan Implications</p>	<p>The revised assessment scheme is based on the council's corporate strategy outcomes.</p>
<p>Environmental and climate change implications</p>	<p>None identified</p>
<p>Property/Asset Implications</p>	<p>As detailed in the report</p> <p>Contact officer: David Roberts@cheltenham.gov.uk</p>

1. Background

- 1.1** As part of Cheltenham Borough Council's wider ambitions to support a thriving voluntary and community sector, the council enables VCS groups to rent its properties through offering a rent support grant scheme.
- 1.2** The current policy was adopted in July 2010 and sets out the following guiding principles:
- As a guiding principle, the Council seeks to maximise the return on its non-operational portfolio. However, where a property is occupied by a registered charity or community group which clearly supports the Council's priorities, the authority will consider a rent subsidy. The subsidy will be calculated against the total assessed rental value of the property on the open market and will be counted as grant aid.
 - In future all lettings by the Council will start from the basis of a commercial or market rate clearly set out in the tenancy agreement and any subsidy, either in the form of a specific performance related grant or reduction in the market rent will be explicitly identified.
 - The decision on whether a particular third sector organisation should be offered Council property at less than 'best consideration' needs to be related to the assessed benefits of the service it provides to the community.
- 1.3** The third sector rent subsidy assessment scheme was approved by Cabinet in March 2011 which set out the five criteria by which each application would be considered to calculate the amount of subsidy to be awarded. Meeting a criteria provided a 20% discount. These were:
- Objective 1: Enhancing & protecting our environment (includes investing in environmental quality, investing in travel and transport and promoting sustainable living)
 - Objective 2: Strengthening our economy
 - Objective 3: Strengthening our communities (includes promoting community safety, promoting housing choice, building healthier communities and supporting older people)
 - Objective 4: Enhancing the provision of arts and culture
 - Objective 5: A focus on children and young people
- 1.4** In addition, and as agreed by the Cabinet in July 2010, a further 20% discount was made available to any charity renting Council property.
- 1.5** Through the current policy and assessment scheme, and previous rent support arrangements, the council is now supporting 16 voluntary and community sector groups with an effective total rent subsidy of c.£200,000 per annum.

2. Reasons for recommendations

- 2.1** As the current assessment scheme was based on the council's corporate priorities at that time (2010-11), it is felt that the criteria do not reflect the current priorities of the Council.
- 2.2** The key aim of this revision is to improve and create greater transparency in the assessment of rental subsidy grant submissions and the value added by the VCS organisations in helping to meet our corporate strategy outcomes.
- 2.3** We know that appropriate rent support to community-based organisations and services can support the viability of such organisations and the services they provide to the benefit of the social and economic well-being of the town. However, the Council will continue to encourage voluntary and community sector organisations to become more self-sufficient and less reliant upon financial support from the Council.
- 2.4** We also know that the council is facing significant financial challenges; the current MTFs predicts a shortfall of £1.7m for 17-18 with a longer-term deficit of £3.18m over the next four years. Ensuring that our property assets are making a positive contribution to the Council's financial position is one of the three objectives of the Council's Asset Management Plan, with a further commitment to optimise the rental income of existing non-operational investment properties.

- 2.5 With applicants being able to reach 120% rental discount under the current system, there is a sense that the council should introduce an approach that enables any rent support grants to be more carefully targeted at those organisations that can demonstrate that they can deliver the best outcomes at best value to the tax-payer.
- 2.6 Cabinet is therefore being asked to consider a twin-phased approach
- 2.7 The maximum rent support grant that any organisation will be able to apply for will be 80% of their current market rent. The rent support grant scheme will not apply to those organisations where, for historical reasons, the rent has been set at less than market level.
- 2.8 That Cabinet retain discretion to award a further grant of 10%, bringing the maximum rent support grant that any organisation could receive to 90%. This will only be in exceptional cases and any such decision will only be taken after detailed consideration of the organisation's financial and business case for the rent support.
- 2.9 This report also sets out proposals to update the assessment scheme so that it is more in-line with the council's current priorities and those of its partnerships.

3. Proposed assessment criteria

- 3.1 Our corporate strategy 2016-17 focuses our efforts on three high level outcomes covering the issues that matter most to our residents, businesses and visitors. We also have an internal "transformation" outcome covering commissioning, asset management, business improvement and financial management. The outcomes are:
- Cheltenham's environmental quality and heritage is protected, maintained and enhanced
 - Sustain and grow Cheltenham's economic and cultural vitality
 - People live in strong, safe and healthy communities
 - Transform our council so it can continue to enable delivery of our outcomes for Cheltenham and its residents.
- 3.2 Cheltenham Partnerships has agreed an action plan that identifies the most-pressing issues for partnership activity where there is both corroborating evidence and a willingness from partners to work collectively on solutions but also where there is alignment with priorities set at a county level. *The four key outcomes are:*
- Strengthening the emotional wellbeing and resilience of all Cheltenham residents
 - We will work to promote healthy lifestyles across all communities in Cheltenham
 - We will work to encourage more people to get actively involved in their communities so that people live in strong and safe communities
 - We will work to ensure that everyone has an opportunity to contribute to Cheltenham's economy
- 3.3 We are therefore proposing that the following four outcomes form the basis of our assessment criteria:
- **Cheltenham's environmental quality and heritage is protected, maintained and enhanced**
 - **Sustain and grow Cheltenham's economic and cultural vitality**
 - **People live in strong and safe communities**
 - **We will work to strengthen the emotional and physical wellbeing of all Cheltenham residents**

4. Proposed assessment principles

- 4.1 All lettings of Council property will be based on market rent which will be clearly set out in the tenancy/lease agreement. The rent support grant scheme will not apply to those organisations where, for historical reasons, the rent has been set on a less than market level basis. Any

decision to agree a rental support grant in support of the rent payment will be based upon an assessment of the value that the organisation provides from the building to the four outcomes set out above.

- 4.2** If the arrangement is subsidised in any way, there needs to be assurances that the grant is not counter to the requirements of European law relating to state aid.
- 4.3** The maximum rent support grant that any organisation will be able to apply for will be 80% of their current market rent and that the assessment process will determine the level of grant to be offered up to this maximum and will be staggered incrementally, as follows:
- Meeting one outcome –up to 20% grant
 - Meeting two outcomes –up to 40% grant
 - Meeting three outcomes –up to 60% grant
 - Meeting four outcomes –up to 80% grant
- 4.4** Each outcome is subject to a stepped discount between 0 and 20% depending upon the impact of the defined sub-elements of each outcome.
- 4.5** In addition, the council will scrutinise the applicant's financial standing and make an assessment of the following:
- That the reason for applying for the rent support grant is backed up by the organisation's financial health in that the grant award will support the financial viability of the operation of the building
 - That the organisation has reasonable longer-term plans in place to be able to sustain activities being delivered from the building beyond the term of the grant.
- 4.6** The offer of a grant will be for a maximum of three years that will be reviewed at the end of each 12 month period to ensure that the applicant continues to deliver the activities set out in the original application. The council will reserve the right to either review the grant amount awarded or withdraw it completely if there are changes to the activities being delivered. In addition, if the organisation is in debt arrears to the council; the grant will be withdrawn.
- 4.7** The council will not make any award of a rent support grant under this new scheme retrospectively.
- 4.8** If the tenant, at the time of rent support grant application, is able to commit to undertaking significant investment into the property, with an agreed funding package in place, with works that will take place within the timeframe of the grant agreement and that will have a demonstrable positive benefit to the property's value, the Cabinet may choose to increase the rent support grant, in recognition of this commitment.
- 4.9** VCS organisations that are occupying our buildings that have been formally commissioned or contracted to provide services on behalf of the Council will not be able to apply for a rent support grant under this policy. In these cases, the amount to be charged in rent will be specified in the formal contracts or service level agreements.
- 5. Proposed assessment process**
- 5.1** The organisation requesting a rent support grant must complete rent support grant application form – see appendix 3
- 5.2** The Council's Assessment Panel (comprising a community engagement lead, a commissioning lead and a finance lead) will review each application and make a recommendation to the Director of Resources.

5.3 The Director of Resources will then brief the Cabinet Member Finance, who in consultation with Asset Management Working Group and other Cabinet portfolio holders, will decide whether or not the organisation contributes sufficiently enough to the four outcomes listed above to merit a rent support grant and what the level of grant should be. A report will be brought to Cabinet setting out the proposed level of rent support grant and the reasons for this if it differs from the recommendations from the rent assessment panel.

5.4 The offer of the rent support grant will be for a maximum term of three years at which point the applicant must re-apply for the grant.

6. Proposed monitoring and review arrangements

6.1 The council will put in place an annual monitoring process whereby recipients of a rent support grant will submit a monitoring form to explain the activities that have been delivered from the premises. The monitoring information will be reviewed by the Asset Management Working Group that will be able to make recommendations to the Cabinet Member Finance about whether the grant should continue into the next year, or whether the level of rent support grant should be reviewed or withdrawn.

6.2 The quality and timeliness of previous monitoring information will taken into account, if the applicant wishes to re-apply for a rent support grant at the end of the three year period.

7. Right of appeal

7.1 Once an organisation's application has been assessed, the information contained within it cannot be altered or amended.

7.2 The council will not offer a right of appeal to the decision made by Cabinet as to the level of the rent support grant awarded.

8. What happens afterwards

8.1 Following the cabinet decision on the amount of rent support grant to be offered, the council will then enter into a grant agreement. This will specify the terms of the grant offer and also set out the monitoring and review arrangements.

9. Consultation and feedback

9.1 The principle of reviewing the council's rent support process was discussed with the Cheltenham VCS forum at its meeting on 26th April where there was general support for the review.

9.2 More detailed proposals relating to the review were shared with the Council's Asset Management Working Group on 16 June. The Asset Management Working Group also reviewed the final proposals at its meeting on 3 November 2016 and resolved to support the recommendations that cabinet agrees to adopt a new assessment scheme for the award of rent support grants to VCS organisations.

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Appendices	<ol style="list-style-type: none">1. Risk Assessment2. Updated Policy for Property Lettings and Disposals to the Third Sector, Voluntary and Community Groups3. Application Form - Award of rent support grants to Cheltenham's Voluntary and Community Sector Organisations4. Equality Impact Assessment Form
Background information	

Risk Assessment

Appendix 1

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	If the Council is overly generous in subsidising tenancies with grants, this will result in reduced income from assets and cumulative impacts on the Council's medium term financial strategy.	Mark Sheldon	18.11.16	3	3	9	Reduce	Introduce new policy	Dec 16	Richard Gibson	
	If the Council is too restrictive in the way it allocates rent support grants, this may put a financial strain on the organisation with the consequential result that the council's objectives in the communities are not fulfilled or are seriously curtailed.	Richard Gibson	18.11.16	2	3	6	Reduce	Introduce new policy	Dec 16	Richard Gibson	
	If appropriate and transparent grant agreements are not put in place, tenants may be more difficult to remove if they fail to meet the terms of any subsidised letting arrangement, with the potential for associated adverse publicity for the Council;	Richard Gibson	18.11.16	2	2	4	Accept	Introduce new policy	Dec 16	Richard Gibson	
	If prospective tenants cannot demonstrate a robust business plan when taking on property commitments from the Council, there is an increased risk of failure and associated financial and reputation impacts for the authority.	Mark Sheldon	18.11.16	2	3	6	Accept	Introduce new policy	Dec 16	Richard Gibson	
	If the grant expires or is terminated, tenants will remain responsible for payment of rent at market value. This may result in an increase in arrears.	Mark Sheldon	18.11.16	2	2	4	Accept	Introduce new policy	Dec 16	Richard Gibson	
<p>Explanatory notes</p> <p>Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)</p> <p>Likelihood – how likely is it that the risk will occur on a scale of 1-6 (1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)</p> <p>Control - Either: Reduce / Accept / Transfer to 3rd party / Close</p>											