

Supporting Information and Impact Assessment

Service / Policy:	Corporate Asset Management Plan
Executive Lead:	Mayor Gordon Oliver, Executive Lead for Finance and Regeneration
Director / Assistant Director:	Anne-Marie Bond, Assistant Director – Corporate & Business Services

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Key Milestones / Project Timeline

Outline key milestones which need to be met in the timeline below, include dates of any meetings (PDG / Council) and when the consultation activity will open and close.

Section 1: Background Information

<p>1.</p>	<p>What is the proposal / issue?</p> <p>On 25th February 2016 the Council approved the Corporate Asset Management Plan for 2015 ~ 2019. In section 6.11 the Plan states that the Council holds a variety of Tenanted Non-Residential Properties (TNRP) on which it has granted either leases or licences to third parties. These assets range from golf clubs, offices, restaurants, industrial & leisure sites, to leases to sports clubs and other voluntary sector groups. One of the issues that the Corporate Asset Management Plan goes on to identify, is the need for the Council <i>‘To review the accounting procedures to ensure that market rent is charged on all assets – even if then an equivalent grant is given to the organisation leasing the asset’</i>.</p> <p>The issue around accounting procedures has now been largely resolved but one of the ‘Asset Management Principles’ identified within the Corporate Asset Management Plan is ‘To release value and minimise cost’. The Plan is clear that due to the financial challenges facing the Authority, one of the measures to achieve this is to <i>‘Ensure any grant from the Council to assist with a tenant’s rent will be reviewed annually’</i>, unless there is specific approval at Full Council to the contrary.</p> <p>It is important that the Council has clear processes and procedures in place to determine applications for grants to offset market rents. Officers have therefore taken the opportunity to review, amend and consolidate the processes and procedures in place to determine applications for grants in lieu of or to offset market rents. The revised processes and procedures for determining applications for grants to offset market rent should be adopted as an Appendix to the Council’s Corporate Asset Management Plan 2015 ~ 2019. It is expected that this will provide a more consistent and transparent approach, for all concerned, which will help meet the requirements of the Corporate Asset Management Plan and manage the expectations of those applying for grants.</p> <p>One of the recommended amendments is that grants to tenants are not reviewed annually but any grant will be time bound and will not extend beyond the next scheduled rent review. This should provide tenants with a degree of certainty.</p>
<p>2.</p>	<p>What is the current situation?</p> <p>In July 2011, a paper was submitted to Full Council that recommended the Mayor authorise the then Executive Head of Commercial Services, in consultation with the Chief Executive of the Torbay Development Agency (TDA), to grant leases for up to 40 years to sports clubs on acceptable terms with each case being considered on its merits. It was envisaged that the granting of 40 year leases to the Bay’s sports clubs would give them a better chance of applying for and receiving grants to improve facilities.</p> <p>Despite the benefits of securing additional funding through the granting of extended leases, the Council has only reached agreement on four leases for</p>

sports clubs. Notwithstanding a significant amount of effort and resource from Council and TDA officers, there are an additional number of sports clubs where agreements have not yet been reached. There have been a variety of reasons why the Council has failed to reach agreement on the outstanding sports leases. As an example, changing priorities within the sports clubs, failure to reach agreement on proposed lease terms, lack of understanding on proposed lease terms and the failure of sports clubs to be legally represented are to name a few.

The drawn out process of trying to reach agreement over several years has been a significant drain on the Council and TDA resources. During the year 2015/16, the TDA Estates Team spent over 400 recorded hours working on sports leases.

It is clearly stated in the latest Corporate Asset Management Plan that “*Due to the financial challenges facing the Authority and the possible future reductions in Revenue Support Grants, unless there is specific approval at Full Council to the contrary, the Council will always seek to maximise the full market receipt for their assets whether by way of freehold disposal or leasehold interest*”. It is therefore apparent that Officer time might be better spent maximising returns to the Council.

The estimated market rent assesses the lease value against other similar leases (i.e. sports leases) across the South Devon area. An estimated market rent will take into account whether the landlord or tenant has the liability for the cost of maintenance and what income generating facilities are at the disposal of the tenant. i.e. a club house & bar, private car parking, etc. The estimated market rent would also reflect the restrictive nature (sports use only user clause) of the lease and the level of the security of tenure.

A combination of the above factors can either increase or lower the valuation and so it must not be assumed that a ‘market rent’ is necessarily a high rent. In the case of sports clubs the ‘market rent’ should not be compared with the commercial rent a business might pay in the high street.

Clearly there is still a need to try and conclude the outstanding sports leases for the benefit of all concerned. Officers have therefore taken the opportunity to review and amend the whole process surrounding the granting of sports leases and it is proposed that an ‘overarching strategy’ for the granting of sports leases should be adopted as an Appendix to the Council’s Corporate Asset Management Plan 2015 ~ 2019. It is expected that this strategy will provide a speedier, more consistent and transparent approach, for all concerned, which will help reduce delays and manage expectations.

It is the intention that all future sports leases will adhere to the key terms of this overarching strategy.

<p>3.</p>	<p>What options have been considered?</p> <p>The following options have been considered:</p> <ol style="list-style-type: none"> 1. Continue to consider requests for grants to offset market rents without any clear processes or procedures. This would clearly be contrary to the expectations set out in the Corporate Asset Management Plan 2015 ~ 2019. 2. Continue with ongoing negotiations with sports clubs based on discussions and negotiations to date. It is clear from the limited progress and protracted negotiations there is little likelihood of many of the outstanding sports leases reaching completion in the near future. Further significant effort would be required to conclude the outstanding matters. 3. Propose a new overarching strategy that outlines the Council's approach to granting leases to sports clubs. This option may well result in the rewinding of discussions back to a starting point in some cases and this could cause some reputational damage to the Council. However, proposing a predetermined set of key terms where little additional negotiation is required or necessary should ultimately result in discussions reaching a satisfactory conclusion in a more timely fashion. 4. Revert back to the Council considering requests for sports leases on a case by case basis. This option would allow the Council to have regard to the aspirations of the clubs and also consider the Council's long term views for the leased area. However, it is likely this would ultimately result in further delays as detailed negotiations would need to be undertaken with each sports club in isolation.
<p>4.</p>	<p>How does this proposal support the ambitions, principles and delivery of the Corporate Plan 2015-19?</p> <p>This decision to grant sports leases is not a specific corporate priority. However, it does support the Corporate Plan ambitions of being a Healthy Torbay in promoting a healthy lifestyle and ensuring Torbay remains an attractive and safe place to live. It also supports and adds to the existing principles set out in the approved Corporate Asset Management Plan.</p> <p>By offering long leases to local sports clubs the Council can provide the clubs with the confidence that comes with security of tenure. This new found confidence should serve as a catalyst for improvement whereby our sports clubs will positively engage with their communities and in particular with our young people. Some local clubs are already fully engaged with their communities but this new overarching strategic approach to sports leases will ensure that the tenant clubs or group are</p>

	<p>working with the respective national Governing Body for their sport. Not all clubs are optimising the opportunities that are available and there is an opportunity cost.</p> <p>A new overarching strategic approach to sports leases will require that the tenant/sports clubs are working with the respective national Governing Body for their sport. This requirement is included to ensure that a tenant organisation has an appropriate constitution with associated rules & regulations. It also means that the tenant would be required to follow best practice in such matters as safeguarding, protecting young children, inclusion and financial probity; it will also help to prevent discrimination and promote equality. Consequently, it is expected that the tenant organisation will have the relevant policies for such matters and can therefore demonstrate a corporate social responsibility.</p> <p>Where an umbrella group is acting as the tenant it will be a condition of the lease that they must ensure that the clubs using the facilities are affiliated to a recognised sport's governing body.</p>
<p>5.</p>	<p>Who will be affected by this proposal and who do you need to consult with?</p> <p>The decision to formally adopt a procedure for determining applications for grants to offset market rent (grants in lieu of rent) could have an adverse affect on some tenant organisations that currently enjoy the benefit of a grant or grants. Equally it could have a positive impact on certain groups who do not currently benefit from such a grant.</p> <p>The decision to formally adopt an overarching strategy for the granting of sports leases may have an adverse affect on some sports clubs where negotiations have been ongoing for some time. However, it is hoped that sports clubs will understand that given the protracted discussions thus far, that a new and transparent process will hopefully result in outstanding matters reaching a conclusion more quickly. The Council has also spent a significant amount of time negotiating sports leases.</p> <p>Consultation has been undertaken with the Executive Leads and the Council's Senior Leadership Team. Torbay Sports Council and the Overview & Scrutiny Board have also been consulted. Direct consultation with all the tenant organisations applying for grants and all the sports clubs requesting leases was not considered appropriate.</p>
<p>6.</p>	<p>How will you propose to consult?</p> <p>Discussions were held with the Executive Leads and Council's Senior Leadership Team. Draft reports and appendices were considered by the Overview & Scrutiny Board and sent to the Torbay Sports Council for suggestions and comment. Further consultation will take place with the tenants during the grant application process and/or the discussions for a long sports lease. The Corporate Asset Management Plan is reviewed annually in any event and so further amendments can be made in future years.</p>

Section 2: Implications and Impact Assessment

7.

What are the financial and legal implications?

Financial Implications of Decision

Savings should be made by strengthening the criteria for applying for a grant to offset the market rent. Also, by streamlining the sports leases process a significant saving should be realised as there will be a reduction in Officer time and improved efficiency.

Sports leases will normally be advertised to ensure that there is a competitive element to the selection of a tenant and that our communities will be rewarded with the best offer in terms of quality. The Council will use a combination of quality and cost to demonstrate best value, when scoring an applicant's bid for a long sports lease. It is important that a local sports club that wishes to become a tenant or is already a tenant; is discouraged from 'coasting along', not improving or reaching out to their local community.

8.

What are the risks?

Risks to Council

- If the rent is agreed at full market rent then there is no risk to the Council as it is within the Councils policy.
- If the rent is agreed at a level below market rent then this would be outside of the current Council policy.
- If the Council determines a rental higher than they have been negotiating with the tenant organisation/sports club, due to these recommended changes in policy then there is a risk of reputational damage for the Council. This risk may be mitigated if a grant to offset the rent is appropriate and applied.

Risk to the tenant organisation/sports club

- If the rent is increased to the market rent then there is a risk that the tenant would find it difficult to meet the rental commitments and they might have to increase their membership/subscription fees to the community using the facilities which may deter participation. However, the tenant will be able to apply for a grant to offset the market rent and the tenant will be able to exercise a break clause if they cannot sustain their commitments. Furthermore, the grant period can be aligned with the time of the rent review and/or break option.

<p>9.</p>	<p>Public Services Value (Social Value) Act 2012</p> <p>Not applicable as procurement of services or the provision of services together with the purchase or hire of goods or the carrying out of works not required as part of this decision</p>
<p>10.</p>	<p>What evidence / data / research have you gathered in relation to this proposal?</p> <p>Reference was made to the 'Review of the Provision of Grants in Lieu of Rent' undertaken by the Overview & Scrutiny Board in March 2004.</p> <p>Reference was made to the Torbay Sports Facilities Strategy and the Torbay Playing Pitch Strategy.</p> <p>Comparable evidence from sport leases from Plymouth City Council, Teignbridge District Council and Exeter City Council was obtained as well as looking at lettings completed previously within Torbay Council.</p>
<p>11.</p>	<p>What are key findings from the consultation you have carried out?</p> <p>The adoption of two new Appendices to add to the existing Corporate Asset Management Plan 2015 ~ 2019 will amend a key policy framework document and allow for clear and published processes to exist in relation to the award of grants in lieu of rent as well as the Council's approach to long leases for sports clubs. It is expected that the amendments will introduce more consistency and transparency for all concerned.</p> <p>Torbay Sports Council were consulted on these proposals and they provided feedback to the Overview and Scrutiny Board. The views of the Torbay Sports Council can be summarised as follows :-</p> <p><i>"Torbay Sports Council do not agree with the Council to charging Market Rent on Sporting Facilities. Torbay Sports Council proposes that all Sports Leases not for profit organisations have a peppercorn rent up to a maximum of £500 a year and this is put before full Council. This includes old, current and future leases."</i></p> <p>Individual responses from clubs were forwarded by Torbay Sports Council and a number of these are set out below :-</p> <ul style="list-style-type: none"> • Clubs are run by volunteers who know nothing about the legalities around leases and most clubs cannot afford legal help and advice to help them through the process. • Clubs have already saved the Council several thousands of pounds by doing and paying for the work themselves which is ongoing and a permanent financial drain for them. • Clubs are confusing market rent with a commercial rent. • Clubs do not have the business skills to understand the long term

	<p>commitment to this type of leasing arrangement.</p> <ul style="list-style-type: none"> • Clubs see the proposals as a money making exercise for the Council. • Clubs are not going to commit to 40 years of full market rent in the hope of getting help in the form of grants which are reviewed annually. • Torre Valley Sport Association is not a sports club and cannot therefore be affiliated to a Sports Governing Body. • Charging a market rent to a voluntary sports club is unrealistic as sports clubs are not a profit making businesses. • Clubs are worried that grants could be withdrawn in the future. • It's great that clubs should be a member of their governing body.
<p>12.</p>	<p>Amendments to Proposal / Mitigating Actions</p> <p>Clubs will be able to apply for a grant from the Council to offset the market rent. Also, it is proposed that grants are not renewed annually but are reviewed on a three or five yearly basis in line with any scheduled rent review. This will provide clubs with some certainty over their rental costs and this combined with an option to break the lease on the tenant's part, will mean that clubs are not committing to something that they cannot afford.</p> <p>It is clear that sports clubs will need ongoing support and advice regarding their commitments in respect of long leases. If they are not familiar with lease negotiations then the prospect can be both challenging and daunting, which could discourage further participation in the process. The Council and the TDA will therefore work with the Torbay Sports Council to support the clubs through the lease process, including the provision of a set of "Frequently Asked Questions".</p>

Equality Impacts

13	Identify the potential positive and negative impacts on specific groups			
		Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
	Older or younger people	<p>Long leases for sports clubs will bring confidence through security of tenure. This confidence should serve as a catalyst for improvement whereby our sports clubs will positively engage with their communities and in particular with our young people. Some local clubs are already fully engaged with their communities but this new overarching strategic approach to sports leases will ensure that the tenant clubs are working with the respective national Governing Body for their sport. This will help prevent discrimination and promote equality.</p>	<p>Charging a market rent may undermine the tenant's business case with the result that charges will be increased to end users of the sporting facilities. This may reduce participation in sport.</p>	
	People with caring Responsibilities	<p>Long leases for sports clubs will bring confidence through security of tenure. This confidence should serve as a catalyst for improvement whereby our sports clubs will positively engage with their communities and in particular with our young people. Some local clubs are already fully engaged with their communities but this new overarching strategic approach to</p>	<p>Charging a market rent may undermine the tenant's business case with the result that charges will be increased to end users of the sporting facilities. This may reduce participation in sport.</p>	

	sports leases will ensure that the tenant clubs are working with the respective national Governing Body for their sport. This will help prevent discrimination and promote equality.		
People with a disability	Long leases for sports clubs will bring confidence through security of tenure. This confidence should serve as a catalyst for improvement whereby our sports clubs will positively engage with their communities and in particular with our young people. Some local clubs are already fully engaged with their communities but this new overarching strategic approach to sports leases will ensure that the tenant clubs are working with the respective national Governing Body for their sport. This will help prevent discrimination and promote equality.	Charging a market rent may undermine the tenant's business case with the result that charges will be increased to end users of the sporting facilities. This may reduce participation in sport.	
Women or men	Long leases for sports clubs will bring confidence through security of tenure. This confidence should serve as a catalyst for improvement whereby our sports clubs will positively engage with their communities and in particular with our young people. Some local clubs are already fully engaged with their communities but this new overarching strategic approach to	Charging a market rent may undermine the tenant's business case with the result that charges will be increased to end users of the sporting facilities. This may reduce participation in sport.	

	sports leases will ensure that the tenant clubs are working with the respective national Governing Body for their sport. This will help prevent discrimination and promote equality.		
People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>	Long leases for sports clubs will bring confidence through security of tenure. This confidence should serve as a catalyst for improvement whereby our sports clubs will positively engage with their communities and in particular with our young people. Some local clubs are already fully engaged with their communities but this new overarching strategic approach to sports leases will ensure that the tenant clubs are working with the respective national Governing Body for their sport. This will help prevent discrimination and promote equality.	Charging a market rent may undermine the tenant's business case with the result that charges will be increased to end users of the sporting facilities. This may reduce participation in sport.	
Religion or belief (including lack of belief)	Long leases for sports clubs will bring confidence through security of tenure. This confidence should serve as a catalyst for improvement whereby our sports clubs will positively engage with their communities and in particular with our young people. Some local clubs are already fully engaged with their communities but this new overarching strategic approach to	Charging a market rent may undermine the tenant's business case with the result that charges will be increased to end users of the sporting facilities. This may reduce participation in sport.	

	<p>sports leases will ensure that the tenant clubs are working with the respective national Governing Body for their sport. This will help prevent discrimination and promote equality.</p>		
<p>People who are lesbian, gay or bisexual</p>	<p>Long leases for sports clubs will bring confidence through security of tenure. This confidence should serve as a catalyst for improvement whereby our sports clubs will positively engage with their communities and in particular with our young people. Some local clubs are already fully engaged with their communities but this new overarching strategic approach to sports leases will ensure that the tenant clubs are working with the respective national Governing Body for their sport. This will help prevent discrimination and promote equality.</p>	<p>Charging a market rent may undermine the tenant's business case with the result that charges will be increased to end users of the sporting facilities. This may reduce participation in sport.</p>	
<p>People who are transgendered</p>	<p>Long leases for sports clubs will bring confidence through security of tenure. This confidence should serve as a catalyst for improvement whereby our sports clubs will positively engage with their communities and in particular with our young people. Some local clubs are already fully engaged with their communities but this new overarching strategic approach to</p>	<p>Charging a market rent may undermine the tenant's business case with the result that charges will be increased to end users of the sporting facilities. This may reduce participation in sport.</p>	

	<p>sports leases will ensure that the tenant clubs are working with the respective national Governing Body for their sport. This will help prevent discrimination and promote equality.</p>		
<p>People who are in a marriage or civil partnership</p>	<p>Long leases for sports clubs will bring confidence through security of tenure. This confidence should serve as a catalyst for improvement whereby our sports clubs will positively engage with their communities and in particular with our young people. Some local clubs are already fully engaged with their communities but this new overarching strategic approach to sports leases will ensure that the tenant clubs are working with the respective national Governing Body for their sport. This will help prevent discrimination and promote equality.</p>	<p>Charging a market rent may undermine the tenant's business case with the result that charges will be increased to end users of the sporting facilities. This may reduce participation in sport.</p>	
<p>Women who are pregnant / on maternity leave</p>	<p>Long leases for sports clubs will bring confidence through security of tenure. This confidence should serve as a catalyst for improvement whereby our sports clubs will positively engage with their communities and in particular with our young people. Some local clubs are already fully engaged with their communities but this new overarching strategic approach to</p>	<p>Charging a market rent may undermine the tenant's business case with the result that charges will be increased to end users of the sporting facilities. This may reduce participation in sport.</p>	

	<p>sports leases will ensure that the tenant clubs are working with the respective national Governing Body for their sport. This will help prevent discrimination and promote equality.</p>		
<p>Socio-economic impacts (Including impact on child poverty issues and deprivation)</p>	<p>Long leases for sports clubs will bring confidence through security of tenure. This confidence should serve as a catalyst for improvement whereby our sports clubs will positively engage with their communities and in particular with our young people. Some local clubs are already fully engaged with their communities but this new overarching strategic approach to sports leases will ensure that the tenant clubs are working with the respective national Governing Body for their sport. This will help prevent discrimination and promote equality.</p>	<p>Charging a market rent may undermine the CIC business case with the result that charges will be increased to end users of the sporting facilities. This may reduce participation in sport.</p>	
<p>Public Health impacts (How will your proposal impact on the general health of the population of Torbay)</p>	<p>Long leases for sports clubs will bring confidence through security of tenure. This confidence should serve as a catalyst for improvement whereby our sports clubs will positively engage with their communities and in particular with our young people. Some local clubs are already fully engaged with their communities but this new overarching strategic approach to</p>	<p>Charging a market rent may undermine the CIC business case with the result that charges will be increased to end users of the sporting facilities. This may reduce participation in sport</p>	

		sports leases will ensure that the tenant clubs are working with the respective national Governing Body for their sport. This will help prevent discrimination and promote equality.		
14	Cumulative Impacts – Council wide (proposed changes elsewhere which might worsen the impacts identified above)	N/A		
15	Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above)	N/A		

