

Pembrokeshire County Council

Property Policy for Occupation of Council Owned Property by Third Parties

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1. Background

This document sets out the Council's policy with regard to the letting of its land and buildings to third parties. The policy is applicable to every lease or licence whether to a private individual, company, club, association, charity or other body. The policy is not intended to alter, supercede or replace the terms of any existing or new lease or licence, but is given as guidance as to the Council's preferred method of dealing with such matters. Where any conflict occurs between this policy and the actual terms of any occupation agreement, the actual terms will take absolute precedence.

2. Market Value

There is a legal requirement for the Council to obtain best consideration for any disposal of a lease for more than seven years. The Council also has a general fiduciary duty to obtain market value for any lease or licence of its property unless there are pressing policy or estate management reasons to do otherwise. Therefore all agreements will be entered into on normal commercial terms. Where a tenant requires funding to meet the rent, licence fee, or other costs due under the agreement, then the tenant may make a separate application for grant aid, or other financial support, from the relevant service area within the Council, and this will be decided upon entirely separately from the decision to offer premises to the prospective tenant. Prospective tenants will need to satisfy themselves of their ability to pay the monies due, before entering into a commitment to lease or licence Council property.

3. Prior to entering into a lease:

Unless potential tenants are fully experienced in these matters they will benefit from the advice of professional property advisers. Each party should be separately advised by independent advisers to avoid any conflict of interest. Tenants should not place reliance on information provided by the Council but will be advised to seek independent advice prior to entering into any lease. Potential tenants need to be aware that the Council will operate the lease in the same manner as any prudent commercial landlord.

The Council will, wherever possible, provide estimates of any service charges and other outgoings, in addition to the rent.

The Council will, if appropriate, offer tenants a choice of length of term, including break clauses where appropriate and with or without the protection of the Landlord and Tenant Act 1954. For some types of property, the Council will offer only standardised lease terms, where efficient estate management principles require this.

4. Rent and Value Added Tax:

The Council will, when requested, advise the tenant of the VAT status of the property and the tenant will be advised to take professional advice as to whether any VAT charged on rent and other charges is recoverable.

5. Rent Review:

The basis of rent review will be to open market rent, on normal commercial terms for the type of property concerned. Rent review intervals will be appropriate to the type of property offered. In some, very limited (generally for the purpose of good estate management), circumstances rent may be reviewed to price indices.

6. Repairs and services:

The tenant's repairing obligations, and any repair costs included in service charges, will be appropriate to the length of the term, and the condition and age of the property at the start of the lease. Where appropriate the council will consider alternatives to full repairing terms.

7. Assigning and subletting:

The terms of the lease will not unreasonably restrict alienation, but will instead seek to enable the tenant to assign, or sublet on terms similar to the lease.

8. Alterations and changes of use:

The Councils' control over alterations and changes of use will not be more restrictive than is necessary to protect the value of the premises and any adjoining or neighbouring premises of the Council. At the end of the lease the tenant will not be made to remove and make good permitted alterations unless this is reasonably necessary.

9. Insurance:

The Council will be responsible for insuring the property and the full cost of premiums will be recovered from the tenant. The terms of the insurance policy will be available on request by the tenant. Tenants will be advised of the prudence of taking out their own insurance against loss or damage to contents and their business (loss of profits etc.) and any other risks not covered by the landlord's policy. The only exception will be those properties built by the tenant and occupied under a lease in excess of thirty years.

10. Holding former tenants and their guarantors liable:

When previous tenants or their guarantors are liable to the Council for defaults by the current tenant, the Council will seek to notify the former tenants before the current tenant accumulates excessive liabilities. All defaults will be handled with reasonable speed and the Council will seek to assist the tenant and guarantor in minimising losses. New leases will include provisions for tenants to enter into Authorised Guarantee Agreements on assignment.

11. Ongoing relationship:

The Council will deal with its tenants constructively, courteously, openly and honestly throughout the term of the lease and carry out its obligations fully and on time, expecting the same of the tenant. In order to enable this the Council will encourage a continuing, full and open dialogue with tenants. Enforcing the requirements of the lease and the Council meeting all of its obligations, will ensure that all tenants enjoy a consistent approach from the Council. This will encourage timely payment of rent and compliance by the tenant with the other terms of the agreement. If the tenant faces difficulty in carrying out any obligations under the lease, then ensuring early discussion will assist agreement on how to address the problem.

12. Payment of rent:

All new leases (and other similar occupational agreements) will require the tenants to enter into direct debit arrangements for the payment of rent.