

**ANGUS COUNCIL**

**POLICY & RESOURCES COMMITTEE – 31 AUGUST 2021**

**PEPPERCORN AND DISCOUNTED RENTAL OF COUNCIL PROPERTIES**

**REPORT BY THE DIRECTOR OF INFRASTRUCTURE**

**ABSTRACT**

This report seeks to inform Committee the current situation in regard to peppercorn and discounted rents of council property.

**1. RECOMMENDATIONS**

1.1 It is recommended that the Committee:

- (i) notes the current properties leased at reduced rent in accordance with the existing council policy;
- (ii) considers any changes required at this time to the existing policy for peppercorn rents as set out in Report 409/13 amended by Report 138/19; and
- (iii) considers any changes required at this time to the existing policy for discounted rents as set out in Report 409/13.

**2. ALIGNMENT TO THE ANGUS COMMUNITY PLAN / COUNCIL PLAN**

This report contributes the following local outcomes in in the Angus Community Plan 2017-2030

**ECONOMY**

1. An inclusive and sustainable economy

**PEOPLE**

2. Improved physical, mental and emotional health and well-being

**PLACE**

3. Safe, secure, vibrant and sustainable communities

4. An enhanced, protected and enjoyed natural and built environment

and to the following priorities in the Angus Council Plan 2021-2024

Our communities to be strong, resilient and led by citizens

**3. BACKGROUND**

The Special Arrangements Committee at its meeting on 26 May 2020 considered Report No 145/20 by the Director of Finance advising the Committee of the latest position on the provision of a community facility in Monifieth. An additional recommendation was added to that report:

*v) that a further Report by the Director of infrastructure be brought outlining current peppercorn rents, what benefit they bring for the community and Council and review options as to policy on such rents all for future considerations.*

This report seeks to address this recommendation.

**4. CURRENT POSITION**

4.1 The council has an established policy on the lease of Council Land and Buildings to Community/Voluntary Groups which was established by the (then) Strategic Policy Committee in July 2013 (Report 409/13 refers). This policy established a discount rental for council properties for Foodbanks; Senior Citizens Groups; Youth Groups; Religious Groups; Charity Groups; and some non-profit making community organisations. Given the level of detail in this policy including the rationale, Report 409/13 has been included in these papers as **Appendix 1** to assist the Members' consideration of the current policy.

- 4.2 The above policy was expanded to include clothes banks in April 2019 in Report 138/19 at a rental of £1 per annum.
- 4.3 The above policy considers both peppercorn rents (£1 per annum if collected) and discounted rents.
- 4.4 In addition to the above policy for lease of council buildings, the Council has an established Community Asset Transfer (CAT) policy and guidance which was last updated in Report 105/18 Community Asset Transfer Policy Development & Applications Update. The CAT process allows community groups to make an offer to lease (or purchase) council property. The financial implications of such offers are considered in the assessment of the CAT application and are therefore bespoke to the group and the building involved. Therefore, for the avoidance of doubt, this report does not review the CAT process or policy.

## 5. DETAILS

- 5.1 **Appendix 2** details the current peppercorn rentals of Angus Council and Common Good properties. As noted in Appendix 2 these rentals are in accordance with the policy established in Report 409/13 and where noted have previously been reported to Committee.
- 5.2 The list in Appendix 2 does not include leases that are yet to be implemented which includes the agreed peppercorn rent for Monifieth Resource Centre as set out in Report No 145/20. Similarly, recent Community Asset Transfers which are yet to be finalised are not included.
- 5.3 The community benefits from these peppercorn rent leases are varied. Whilst the physical property that is rented ranges from allotments and eco/gardening projects to sports clubs and foodbanks, the provision of premises for these groups contribute to the Council Plan as detailed in Section 2 of this report.
- 5.4 The policy set in 2013 (Report 409/13) has been applied since its approval. It is noted that, with the exception of school lets, all peppercorn rental leases have been reported to Committees since 2013.
- 5.5 The existing Council policy on peppercorn rents is considered to be appropriate and, the introduction of peppercorn rents for clothes banks in Report 138/19 demonstrates that the policy can be updated and is flexible as and when required.
- 5.6 Committee are therefore asked to consider if any changes are required at this time to the existing policy for peppercorn rents as set out in Report 409/13 amended by Report 138/19.
- 5.7 **Appendix 3** details the current discounted rentals of properties and the tenant. As noted in Report 409/13 Community/Voluntary/Charity Groups are required to provide information to demonstrate eligibility. Officers have repeatedly contacted those tenants, which number circa 50, that may be eligible since the introduction of the policy in 2013. Take up of the discount is around 36% of potential eligible groups as listed in Appendix 3.
- 5.8 The full rental income from these 50 properties would be just under £103,000 per annum. Discounted rentals in place reduces this income by circa £20,400 per annum, partially influenced by one larger property. The 'unclaimed' discounts are estimated to be £10,380 per annum.
- 5.9 The existing Council policy on community rents has served the council appropriately. Committee are therefore asked to consider if any changes are required at this time to the existing policy for Community/Voluntary/Charity Group rents as set out in Report 409/13 amended by Report 138/19, either to the percentage discount or the range of organisations included.

## 6. FINANCIAL IMPLICATIONS

- 6.1 There are no direct financial implications as a result of this report.
- 6.2 In line with our statutory duty to secure best value and in accordance with the Council's Financial Regulations, disposal of land or buildings is through the submission of competitive tenders by public advertisement except where disposal by negotiation at less than best value in accordance with the Disposal of Land by Local Authorities (Scotland) Regulations 2010 applies. The threshold amount for application of the Regulations is £10,000 and some of the properties rental values are below this amount.
- 6.3 The procedure for a disposal (and lease is considered a disposal) of land (or property) for a consideration less than the best that can reasonably be obtained is that the local authority must:
  - (a) appraise and compare the costs and other disbenefits and the benefits of the proposal; and
  - (b) determine that the following circumstances are met:

- (i) the local authority is satisfied that the disposal for that consideration is reasonable;
- and
- (ii) the disposal is likely to contribute to any of the purposes set out below, in respect of the whole or any part of the area of the local authority or any persons resident or present in that area, the promotion or improvement of:
- (1) economic development or regeneration;
  - (2) health;
  - (3) social well-being; or
  - (4) environmental well-being.

- 6.4 Noting the Organisations set out in Table 1 of Report 409/13, it is considered that (ii) above is satisfied and if Members are minded to confirm the policy, that (i) above is also satisfied.
- 6.5 If Committee are minded to amend the discount, then as a guide it is noted that a 10% change in the discounted rate would change the income by circa £10,300 per annum subject to take up.
- 6.6 If Committee are minded to expand the types of groups covered by the policy the detail would need to be considered to evaluate the financial implications.

**NOTE:** The background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) which were relied on to any material extent in preparing the above report are:

- Report No 409/13 The lease of Council Land and Buildings to Community/Voluntary Groups – Strategic Policy Committee – 25 July 2013
- Report 105/18 – Community Asset Transfer Policy Development & Applications Update Angus Council – 22 March 2018
- Report No 138/19 – Policy for the lease of Council Land and Buildings to Community/Voluntary Groups – Clothes Banks – Policy & Resources Committee – 30 April 2019
- Report No 145/20 Monifieth Resource Centre Group – Update and Funding Considerations- Special Arrangements Committee – 26 May 2020

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List of Appendices:

- Appendix 1 – Existing Policy - Report 409/13  
Appendix 2 – List of Properties leased at Peppercorn rent.  
Appendix 3 – List of Properties leased at Discounted rent.

Existing Policy - Report 409/13

AGENDA ITEM NO 3

REPORT NO 409/13

ANGUS COUNCIL

STRATEGIC POLICY COMMITTEE – 25 JULY 2013

POLICY FOR THE LEASE OF COUNCIL LAND AND BUILDINGS TO COMMUNITY/VOLUNTARY GROUPS

REPORT BY THE STRATEGIC DIRECTOR - COMMUNITIES

**ABSTRACT:** This report advises the Committee of the current practice of leasing land and buildings and recommends amendments to regulate the process for leases to Community / Voluntary Groups.

**1. RECOMMENDATIONS**

It is recommended that the Committee:-

- (i) approve the policy for the lease of Council land and buildings to Community/Voluntary Groups which may also influence decisions in respect of future applications for asset transfer
- (ii) review the operation of the policy after 6 and 12 months.

**2. BACKGROUND**

Many community and voluntary groups in Angus contribute to delivering better outcomes for individuals and communities in Angus. It is therefore time to review leasing land and building arrangements to help ensure the sustainability of these groups and organisations.

To complement the policies already approved by the Corporate Services Committee for the management of the non-housing estate and to provide a formal reference document for interested parties, the Head of Property has sought to establish a specific policy for the leasing of land and buildings to Community/Voluntary Groups.

The Estates Management Section of the Property Division, Communities Department, manages the leasing of land and property for all Council Departments (including properties held on the various Common Good Accounts) but with the exception of marketing property held by the Economic Development and Environmental & Consumer Protection Division (EDECPD) and properties used for social housing purposes.

This management function includes negotiations for new leases, lease renewals, rent reviews and ensuring compliance with lease terms and conditions.

**3. CURRENT POSITION**

Angus Council has many different leases in place for a variety of properties e.g., offices, shops, industrial units, houses, sports clubs and fields, grazing fields etc.

Angus Council's policy in terms of leasing land and buildings, as detailed in Report No. 624/10, POLICY FOR THE LEASE OF COUNCIL LAND AND BUILDINGS, is to obtain market value and optimise rental income as contained in Financial Regulations item 17.1.4. and 17.1.5. This applies to all tenants including organisations that support Council services in Angus.

Angus Council does not currently discount prospective rent on the basis of Community Benefit when

negotiating with Community / Voluntary / Charity Groups wishing to lease Council land and buildings.

Rather the policy adopted by Angus Council is to charge market rent. Tenants are then free to seek financial assistance either by Angus Council grant or other funding source bids.

Exceptionally there have been rare cases where this policy has not been employed and specific approval has been sought from the Corporate Services Committee to enter into a nominal lease normally at £1 p.a.

The lease negotiations take account of any services which may be provided on behalf of Angus Council e.g. management of football pitches and income receipt as well as the income currently enjoyed, or being planned, by tenants from social rather than communal activities.

This ensures a common, consistent and transparent approach for all prospective tenants whilst obviating potential accusations of subsidies being provided from public funds. It also avoids most potential challenges regarding fairness and equality of the assessment process that would otherwise need to be established and subsequent outcomes.

Angus Council has never received any formal complaints regarding the adopted process until 2012 when a small number of tenants seeking lease renewal or undergoing rent review have expressed concerns about the market rate applied in the current economic climate. All other tenants have accepted rent increases following negotiation. Such complaints are normally handled through the negotiation process, where an agreement on rent is a pre-requisite to enable progress, and the subsequent conclusion of the associated legal process to formalise the lease.

It is recognised however that the adoption by Angus Council of a Community Asset Transfer Policy (Report No 622/12 Angus Council at its meeting of 01 November 2012) establishes mechanisms for assessing Community Benefit and could inform the basis for a process to be established in lease and rent renewal cases.

The introduction of discounted rents will lead to a risk that many current tenants may challenge their current passing rents or make cases in the future why their rents should benefit from such discounts. The consequent impact will be a resulting net reduction in revenue income to Angus Council.

Following direction received at Corporate Services Committee at its meeting of 31 January 2013, regarding a rent renewal, Report No 67/13, and the proposed policy for the management of Car Boot sales, Report No 69/13, it has been deemed appropriate to review the current policy.

## **4. PROPOSALS**

### **Application**

This policy shall only apply to:-

- properties owned by Angus Council but not being used to deliver a Council service i.e. non-operational properties, including shops and offices, or properties administered by Angus Council on behalf of Burgh Common Good Funds,
- designated types of organisations for their use by way of a formal fixed term lease agreement. It shall not apply to hourly/daily lets of Council owned properties which already make allowance for community related purposes.

### **Policy**

Angus Council wishes to assist organisations which provide Community Benefit to Angus through a discounted rent scheme for those Community / Voluntary / Charity Groups wishing to lease Council land and buildings.

Such groups should endeavour to contribute to the delivery of the Angus Community Plan and Single Outcome Agreement.

Eligible organisations shall be community / voluntary / charity groups, who are providing a service or facility which is required in the interest of the particular geographical area in which they are based.

Eligible organisations will be required to provide a constitution and satisfactory accounts, operate on a voluntary basis, be able to demonstrate that they have an equal opportunities policy and are non political.

Eligible organisations will be required to provide a statement about the aims and objectives of their organisation and a detailed business plan indicating their proposals for the use of the property which they wish to occupy and how they propose to fund the running costs for the duration of the lease. For the avoidance of doubt running costs shall include but not be restricted to repairs, insurance, utility costs, rental costs, etc.

All property to be leased will be initially valued for rental at full market value.

The level of discount to be applied will vary dependent on the type of organisation as detailed in Table 1. Eligible organisations seeking greater discounts than those outlined in table one and two, should pursue the Council's community asset transfer process which requires organisations to produce a valid business case.

Table 1 Proposed discount strategy

<b>Organisation</b>	<b>Category</b>	<b>Full market rental discount</b>
Foodbanks	1	Discount to £1 p.a.
Senior Citizens Groups e.g. The Cottage, Edzell	2	30% off
Youth Groups (such as Brownies, Guides, Boys Brigade)	2	30% off
Religious Groups with local benefits	2	30% off
Charity Groups with local benefits	2	30% off
Non-profit making community organisations concerned with education, social welfare, science, literature or the fine arts	2	30% off

### **Rationale**

The policy shall be applied in a manner which ensures a common, consistent and transparent approach for all prospective tenants using a standard set of assessment criteria. This is intended to obviate accusations of unfair subsidies being provided from public funds and ensure a transparent auditable system of rents to be charged. It also avoids most potential challenges regarding fairness and equality of the assessment process and subsequent outcomes. Assessment will require to take account of what the organisation is doing as well as looking at their status. If they are operating in a competitive environment (for example, provision of social care commissioned by Angus Council), it may be viewed as offering them an unfair advantage over other businesses.

The implementation of this policy shall enable Angus Council to demonstrate clearly the level of contribution in kind which it makes to organisations which deliver community benefits within Angus. A register detailing granted discounts shall be established and maintained by the Head of Property.

All leases shall continue to be in accordance with Angus Council standard terms and conditions whereby the tenant shall be responsible for all running costs of the building for the duration of the lease, including repairs, insurance, utility costs, rental costs notwithstanding their eligibility for, and the granting of, a rental discount in accordance with this policy.

The Head of Property, or future relevant post, shall undertake assessments in conformance with this policy in accordance with current practices and delegations for rent renewals, lease renewals and new leases, reporting to Committee where delegations are exceeded.

Existing leases shall only be reviewed in accordance with the new policy at the time of lease renewal or when the next rent review is undertaken in accordance with the lease terms and conditions.

## **5. RISK**

This report does not require any specific risk issues to be addressed.

## **6. FINANCIAL IMPLICATIONS**

Implementation of the proposals in this report will result in a small reduction in income to the Council. It is estimated that applying the discounts proposed in Table 1 to current qualifying tenants will result in an annual reduction in rental income of approx £3,000 per annum with £1,040 being from the Housing Revenue Account. Currently there are no qualifying tenants paying rent to the various Common Good Accounts

## **7. HUMAN RIGHTS IMPLICATIONS**

There are no Human Rights Act implications specific to this report.

Any implications, as a consequence of discharging recommendations detailed in this report, will be managed in accordance with the standing procedures and processes established by the Property Division.

## **8. EQUALITIES IMPLICATIONS**

The issues dealt with in this report have been the subject of consideration from an equalities perspective. An equalities impact assessment is not required.

## **9. CONSULTATION**

The Chief Executive, the Strategic Directors-People and Resources, the Head of Law and Administration and the Head of Finance, have been consulted in the preparation of this report.

## **10. CONCLUSION**

This report advises the Committee of the proposed policy for the leasing of land to Community / Voluntary / Charity Groups

**Alan McKeown**  
**STRATEGIC DIRECTOR - COMMUNITIES**

**Note:** No background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information), were relied on to any material extent in preparing the above report.

**Property AMcK/NM**

**List of Properties leased at Peppercorn rent**

**Appendix 2**

Site Name	Street	Town	Account (General Fund unless stated)	Description	Lease Type	Tenant	Date of Entry	Term	Expiry	Rent	Committee Approval
Caledonian Railway	2, Park Road	Brechin		Railway Line (Brechin to Bridge of Dun)	Ground Lease	Caledonian Railway (Brechin) Ltd	15/05/1983	99	28/11/2081	£10	Pre dates Report 409/13
Auchterhouse Primary School		Auchterhouse		Hall (Leased)	Building Lease	Auchterhouse Village Hall Committee	01/01/1999	24	31/12/2022	£0	Pre dates Report 409/13
Friockheim Public Park		Friockheim		Ground Lease (Garden Project)	Ground Lease	Friockheim Community Association	01/08/1999	20	31/07/2021	£1	528/99
Wharncliffe Hall	Church Street	Newtyle		Main Hall (Leased)	Building Lease	Newtyle Community Hall Association	01/10/2001	21	30/09/2022	£1	655/01
Allotments	Irish Acre	Forfar	Strangs Mortification	Site	Ground Lease	Irish Acre Allotment Association	01/06/2002	99	31/05/2101	£1	Pre dates Report 409/13
Guthrie Park	Lochside Road	Forfar	Forfar Common Good	Ground - SE of Park	Ground Lease	Forfar Horticultural Society	12/11/2005	10	11/11/2025	£1	Pre dates Report 409/13
Mechanics Institute	St Mary's Street	Brechin	Brechin Common Good	Main Building	Building Lease	Brechin Mechanics Institute Trust	27/11/2005	21	26/11/2026	£1	Pre dates Report 409/13
Brechin Golf Course	Trinity Muir	Brechin		Land	Ground Lease	Brechin Golf and Squash Club	01/03/2008		28/02/2021	£1	Pre dates Report 409/13
Common Myre	Myre Road	Forfar		Site For Botanists	Ground Lease	Friends of the Forfar Botanists	22/04/2013	20	21/04/2033	£1	169/13
Hut & Ground	Craig O Loch Road	Forfar	Forfar Common Good	Hut	Building Lease	Trustees of the Strathmore Christian Fellowship	08/07/2013	5	07/07/2021	£0	409/13



Ground - East End Park	East End Park	Monifieth	Housing Revenue Account	Ground	Ground Lease	Monifieth Eco Force Group	02/06/2014	5	01/06/2021	£1	110/14
Offices (Gravesend)	Gravesend/ Market Place	Arbroath		Gravesend Garage & First Floor Office	Building Lease	Strathmore Christian Fellowship	01/04/2015	5	31/03/2021	£1	18/15
Public Park (The Hill)	The Hill	Kirriemuir		Camera Obscura	Building Lease	Kirriemuir Regeneration Group	01/05/2015		30/04/2021	£0	215/15
Ground (Rosefield Gardens)	Rosefield Gardens	Kirriemuir	Housing Revenue Account	Ground	Ground Lease	Kirriemuir and Dean Area Partnership	20/07/2015	Each Year	19/07/2021	£1	217/15
Brechin City Hall	9, Swan Street	Brechin		Main Building	Building Lease	Brechin City Hall Users Group	01/06/2016		31/05/2021	£1	220/16
Pitskelly Park Leisure Arena	Pitskelly Road	Carnoustie		All-Weather Pitch	Building Lease	Carnoustie Panmure FC (Scio)	03/10/2016	99	02/10/2115	£1	210/15
Guthrie Park	Lochside Road	Forfar	Housing Revenue Account	Ground - 138.6 sqm	Ground Lease	Forfar and District Mens Shed	18/01/2017	5	17/01/2022	£1	285/16
Shop (7 Swan Street)	7, Swan Street	Brechin	Brechin Common Good	Main Building	Building Lease	Brechin Community Pantry (SCIO)	20/09/2017	3	19/09/2020	£1	85/17
Carnoustie High School	7, Shanwell Road	Carnoustie		Storage Containers (Rugby Club)	Ground Lease	Carnoustie Rugby Club	08/07/2018	1	07/07/2021	£1	
Carnoustie High School	7, Shanwell Road	Carnoustie		Advertising Hoardings (Rugby Club)	Ground Lease	Carnoustie Rugby Club	28/05/2019	1	27/05/2021	£1	
Allotments	Brechin Road	Arbroath	Housing Revenue Account	Ground	Ground Lease	Arbroath Garden Allotment Association	01/08/2019	99	31/07/2118	£15	105/18
Shop (50A High Street)	50A, High Street	Brechin	Brechin Common Good	Main Building	Building Lease	Brechin Community Pantry (SCIO)	24/10/2019	3	23/10/2022	£1	138/19

**List of Properties leased at Discounted rent**

**Appendix 3**

<b>Site name</b>	<b>Description</b>	<b>Town</b>	<b>Tenant</b>
Car Park (Palmer Street)	Lease for Rear Access From Car Park	Arbroath	Abbey Theatre Club
Unit 14,16,17 Arbroath Business Centre	Units	Arbroath	Arbroath Men's Shed
Lochlands Bowling Club	Main Building	Arbroath	Lochlands Bowling Club
MacDonald Park	Football Pitch & Changing Rooms	Arbroath	Arbroath Harp J.F.C.
Unit 6 Brechin Business Park	Industrial Unit	Brechin	National Trust for Scotland
Unit 9 Brechin Business Centre	Unit	Brechin	Brechin Baptist Fellowship
Guthrie Park Cricket Ground	Pavilion	Brechin	Brechin Buccaneers Cricket club
Woodland at Lochty Burn	Allotments Site	Carnoustie	Carnoustie Allotment Association
Carnoustie House Grounds (Queen Street)	Girl Guide Hut	Carnoustie	Carnoustie Girl Guides
Edzell Day Centre	Main Building	Edzell	Edzell Day Centre
Beechill House	Site for Day Care Centre	Forfar	Forfar Day Care Centre
Guthrie Park	Football Ground	Forfar	Forfar Albion Junior Football Club
Lethnot Hall	Main Building	Glen Lethnot	Lethnot Hall Committee
Car Park (Adjacent to Village Hall)	Car Park	Hillside	Hillside Village Hall Committee
Hillside Park	Hillside Bowling Club	Hillside	Hillside Bowling Club
Invertay House	Machine Room & Store	Monifieth	Carnoustie and Monifieth Men's Shed
Monifieth Park	Bowling Pavilion	Monifieth	Monifieth Grange Bowling Club
Monikie Country Park	Fishing Rights - Monikie & Crombie	Monikie	Monikie Angling Club
Cricket Ground	Cricket Ground	Montrose	Montrose and District Cricket & Rugby Club