

Report of:	Louise Grabham, Head of Strategic Commissioning & Procurement
Submitted to:	Corporate Affairs and Audit Committee – 9 December 2021
Subject:	Lessons Learnt - Governance on Leasing our Commercial Assets

Summary

Proposed decision(s)
That the Corporate Affairs and Audit Committee note the Governance process in place for the leasing of commercial assets

Report for:	Key decision:	Confidential:	Is the report urgent?
Information		No	No

Contribution to delivery of the 2021-24 Strategic Plan		
People	Place	Business
Deliver sound business management practice through the delivery of the asset disposal policy framework, ensuring best value is achieved		

Ward(s) affected
All Wards

What is the purpose of this report?

1. To provide assurance to Corporate Affairs & Audit Committee that relevant Governance processes and management are in place in regard to the leasing of commercial assets.

Why does this report require a Member decision?

2. No member decision is required. This report is for information only.

Report Background

3. Following a complaint, a joint investigation was undertaken regarding historical leasing matters. The investigation was initially conducted by Internal Audit, with a follow up, more in-depth review conducted by the Head of service.

4. The subject matter of the review concerned the leasing of commercial space in Broadcasting House. The lease in question commenced in 2013, it was extended in 2016 and due to covid was continued 12 months post its termination date.
5. The subject of the review was value for money linked to the commercial terms of the lease. The investigation concluded the following key points:
 - The advise of the Valuation & Estates officer was not followed.
 - Lease terms were agreed at less than favourable rates due to the community benefit it would offer
 - Appropriate due diligence was not progressed or evidenced
 - Decision makers did not make robust challenge when required
6. Whilst community benefit is a legitimate reason for reduced rent levels, both in 2016 and currently, clear documented reasoning on the community benefit would need to be evidenced and recorded. In this instance the review could not find any detailed explanations for the community benefit which would be proportionate to the reductions provided.
7. It was documented that the Valuation & Estates officer was clear in their recommendation regarding the levels of rent however this was not followed and senior management overruled the recommendations. For clarity the Valuations & Estates team were located within Environment Services, under the Growth & Place Directorate at this juncture.
8. At the expiry of the lease, the favourable terms were not extended and commercial terms were offered. This reflects the management changes and the approach in practices towards commercial leasing. The occupant was not in agreement with the significant increase in rent and subsequently sought alternative premises.
9. Assurance can be provided that significant changes have been implemented which would preclude this issue from arising in current leasing practice.
10. The Valuation & Estates Team are now managed within the corporate Finance function. The team is based within Strategic Commissioning & Procurement, and has strong leadership through the Head of Strategic Commissioning & Procurement, reporting directly to the Director of Finance.
11. All leases for commercial assets are negotiated by valuation and estates staff for the majority of the asset portfolio. The management of the Boho estates, centre square 1 & 2 and Tees Amp are undertaken by a team based within regeneration, and captain cook square management is currently externally commissioned. In all cases leases must be requested through Delegated Approval forms (Appendix A). Legal services will not progress instructions without the receipt of an appropriate signed Delegated Approval. Currently there are 3 principal signatories for the Delegated approval:
 - David Velemir – Head of Valuation & Estates
 - Louise Grabham – Head of Strategic Commissioning & Procurement

- Ian Wright – Director of Finance

12. Predominantly all delegated approvals are processed by the Head of Valuation & Estates to ensure consistency of approach. During periods of annual leave & sickness, the Head of Strategic Commissioning & Procurement will become the key signatory.
13. Work on the forward plan includes the development of the Valuation & Estates unit, which will become a centralised unit for all commercial letting within the council. Over the next 6-8months staff involved in leasing and managing other assets including Boho and centre square will transfer into the centralised unit. In the longer term this team will expand and develop to include the management of captain cooks square.
14. The letting policy will be refreshed as part of this development plan, with an aim to have this policy refreshed and approved by May 2022.
15. The issues identified through the review of historical matters outlined above, would not occur currently due to the strong management now in place, supported by robust evidence based procedures.

What decision(s) are being asked for?

16. The Corporate Affairs and Audit Committee are asked to note the contents of this report.

Why is this being recommended?

17. To provide assurance that strong governance is in place regarding the leasing of commercial assets.

Other potential decisions and why these have not been recommended

18. N/A

Impact(s) of recommended decision(s)

19. N/A

Legal

20. All leases are progressed through legal services following signed delegated approvals.

Financial

21. In its report on the statement of accounts, the external auditors confirmed Middlesbrough Council put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources for the year ended 31 March 2020. This is further supported by an internal audit report completed in 2019/20 into Governance processes within the Valuation and Estates team which determined the

following “ it was found that the arrangements for managing risk were very good. An effective control environment appears to be in operation. Our overall opinion of the controls within the system at the time of the audit was that they provided High Assurance”

Policy Framework

22. N/A

Equality and Diversity

23. There are no direct equalities implications that have been identified as relevant to this report.

Risk

24. N/A.

Actions to be taken to implement the decision(s)

25. The following actions will be put in place:

- Develop the centralised Valuation & Estates team to manage all assets within the commercial portfolio by June 2022
- Refresh the lettings policy by May 2022

Appendices

Appendix A – Blank Delegated Approval Form

Background papers

None

Contact: Louise Grabham – Head of Strategic Commissioning & Procurement
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REQUEST FOR DELEGATED APPROVAL

PROCESSING NEW TENANCIES – NEW TENANT

PREMISES:

DESCRIPTION:

FULL NAME OF PROSPECTIVE TENANT(S):

ADDRESS:

UNIT SIZE:

CONSIDERATION:

- Rent:
- Service Charge:
- Car parking:
- Internet:

PROPOSED USE:

MAIN TERMS:

-
-
-
-
-

Notes i)

ii)

iii)

iv)

OFFICER:

SIGNATURE:

DATE:

(Subject to the receipt of satisfactory reference) *I approve the legal transaction and that the Head of Legal Services be instructed to process the legal formalities.

Signed
Estates

David Velemir - Head of Valuation &

Date