

POLICY TITLE

Letting and management of the Council's industrial units

REVISION DATE

September 2004

REPLACES POLICY

This is a new policy

POLICY NUMBER

POLICY AIM

To outline a policy for the way in which the Council's industrial units are let and managed

EXECUTIVE SUMMARY

This policy is to be referred to when considering letting and managing the Council's portfolio of industrial starter units. The main points are: a) units should only be used for light industrial use and no retail or motor vehicle maintenance use will be permitted b) application forms need to be completed by prospective tenants and their financial ability tested c) units are primarily for new businesses, expansion of existing businesses will not routinely be allowed d) tenancies are let for three years e) tenants repair and insure the contents and the Council repairs and insures the buildings f) rents are open market rents and a rent deposit is required on new tenancies g) arrears of rent will be pursued in accordance with the debt recovery policy h) a handbook explaining their obligations will be given to new tenants i) the Public Buildings Surveyor is responsible for implementing this policy and for its review.

POLICY STATEMENT

Use of Units

The provision of the industrial units supports the Council's Economic Development Strategy and their purpose is to encourage the growth of new business especially in the non-food related industries. The units are not held for investment reasons.

The units will only be let for light industrial use except those at Wardentree Lane, Spalding where general industrial use is permitted. Motor vehicle maintenance related uses will not be allowed. Retail uses will not be permitted unless they are ancillary to the main authorised use.

Marketing

A waiting list of potential applicants is updated every three months by the Public Buildings Surveyor and they are contacted when a unit becomes vacant. "To Let" boards at the entrance of the industrial estates and advertising on the Council's website will be used routinely, adverts in the local media will be undertaken when the vacancy rate justifies it.

Applications for Units

All applicants will be asked to provide a bank and two trade references. Applicants, who are already in business, will be required to provide three years' audited business accounts and a Landlord's reference. Existing businesses will only be accepted in times of high vacancies as the primary objective is to encourage new businesses.

Tenants will be required to pay a rent deposit, usually equal to three months rent, which is held by the Council and used if the tenant defaults under the terms of the lease i.e. non-payment of rent or failure to keep the property in good repair. The deposit will be returned to the tenant on the termination of the lease. The amount of rent deposit will depend upon the annual rent and the perceived risk of the applicant, this will be determined in each case by the Public Buildings Surveyor.

Rent and Incentives

The rent to be paid will be on an Open Market Rental Value (OMRV), internal repairing basis with the tenant responsible for internal repairs and contents insurance. The Council will pay for building insurance and undertake all external repairs. The rent levels will be reviewed every three years to reflect current market conditions.

An incentive of three months' rent free can be granted to new businesses at the discretion of the Public Buildings Surveyor. Incentives will only be given in a poor property market. In a more buoyant market, a rent-free period will only be granted for "fitting out" purposes or if the property has been left in a poor condition by a previous tenant. If a rent incentive is granted, the tenant will not be able to vacate within the first twelve months. The Public Buildings Surveyor will decide in each case whether a rent free period is to be granted and will keep a register of all rent incentives given.

Expanding Businesses

The Council's role in providing the industrial units is primarily for start-up accommodation for new businesses. Although there should be some flexibility to enable tenants to expand their business in-line with the Economic Development Policy, it should not be to the detriment of new businesses. The private industrial property sector in the District is poor and expanding businesses could be forced to relocate outside the area. The Council will continue to accommodate expanding businesses where units are available and rent discounts of up to 10% for having one additional unit will only be offered where it is advantageous to the Council to retain a tenant. The Public Buildings Surveyor will decide in each case whether a discount should be granted and keep a register of all discounts given.

Main Terms of Tenancies

The units will be available to let on three year tenancies which are renewable at the end of that period. The tenancies can be terminated at any time subject to the Council giving six months notice to the tenant and the tenant two months notice to the Council. Consequently, it is unnecessary to grant tenants the right to assign their tenancies. In addition, tenants will be prohibited from under-letting, granting a licence to occupy, sharing possession or parting with possession.

The tenant is responsible for the repair and decoration of all internal parts including the repair of doors, windows, frames and glass however damaged and all the Council's fixtures and fittings. The tenant may only make alterations to the property with the Council's consent. The Council is responsible for repairs to the foundations, drains below ground, roof and structural parts and external decoration of the property, the upkeep of the communal areas and building's insurance including insuring against damage due to theft or vandalism. The tenant is responsible for the payment of business rates and all other charges in relation to the property.

Landlord and Tenant Act 1954, Part II

The tenancies are regulated by the Landlord and Tenant Act 1954, Part II. At the end of the three year tenancy tenants have an automatic right to renewal.

All tenancies must be terminated by a statutory "notice" either by the Council or tenant either six to twelve months prior to the end date otherwise the tenancy will continue after that date as a statutory tenancy which again will require a proper legal notice to terminate before a new tenancy can be granted. The Council must serve a "Section 25" notice under the Act terminating the lease but allowing the tenant to renew it, if they wish. The Council can only object to the renewal of the lease if it can prove one or more "grounds" under the Act such as persistent rent arrears.

Vacation of Units

New tenants will be asked to complete a key form stating that they have taken on the property in a good state of repair and condition.

A schedule of dilapidations will be undertaken by the Council prior to the termination of the tenancy, outlining the items of work the tenant is required to carry out under the terms of their tenancy to return the unit to a good state of repair. The Council will not accept the keys back from or return the rent deposit to the tenant until all the works have been completed satisfactorily.

Rent Arrears

The Council has a corporate Debt Policy and Write-Off Policy which will be complied with in the administration of the industrial units. We will tackle rent arrears in a number of ways. Firstly, the Public Buildings Surveyor, in consultation with Accounting Services, will agree terms for repayment based on a strict but fair timetable for repayment in full and based on all other payments due being made. Secondly, the Council will use the option to "distrain" for rent using bailiffs. This means the Council is able to take possession of goods which are in the property and hold them as security for rent or sell them and use the proceeds of sale to clear the rent arrears. The Council can only "distrain" for rent while the tenant is in occupation of the unit. Once the tenant has vacated, remedies normally require court action. All rent arrears will be pursued but the costs of recovery and time involved will also be considered by the Public Buildings Surveyor in consultation with Accounting Services. Tenants will not be allowed to vacate units owing the Council money unless an agreement has been signed by both parties agreeing to the payment in installments.

IMPLEMENTATION

R – Responsible – Public Buildings Surveyor
A – Accountable – Public Buildings Surveyor
C – Consulted – Tenants
I – Informed – Tenants

MONITORING

The policy will be monitored in the following ways:

MONITORING ACTIVITY	PERSON RESPONSIBLE
As included in Policy Statement	Public Buildings Surveyor

POLICY CONSULTATION

The Public Buildings Surveyor will ensure that all tenants are aware of this policy and their responsibilities. A "Tenants Handbook" will be given to all new tenants outlining their duties and responsibilities.

POLICY APPROVAL

	Date Forwarded	Date Approved
Policy prepared by Head of Property		
Public Buildings Surveyor	16 September 2004	
Assistant Chief Executive (Economic Development)	16 September 2004	
Head of Finance	16 September 2004	
Head of Legal and Member Services	16 September 2004	
Portfolio Holder	16 September 2004	
Cabinet		
Council		

RELATED POLICIES & STRATEGIES

Corporate Debt Recovery Policy
Write-off Policy