



WEARMOUTH LEARNING TRUST

LETTINGS POLICY

TABLE OF CONTENTS

INTRODUCTION	3
DEFINITION OF A LETTING.....	3
EVENT NOTICES	3
LICENSING	4
FLOWCHART.....	5
CHARGES FOR A LETTING	6
LETTING TIMES, AVAILABLE FACILITIES AND EQUIPMENT	6
SECURITY	6
MANAGEMENT AND ADMINISTRATIONS OF LETTINGS	7
ADMINISTRATIVE PROCESS.....	7
CANCELLATIONS.....	8
APPEALS PROCEDURE	8
COMPLAINTS PROCEDURE	8
APPENDIX A LICENCE AGREEMENT	10
APPENDIX B TRANSFER OF CONTROL AGREEMENT APPLICATION FORM	14
APPENDIX C TRANSFER OF CONTROL AGREEMENT	18
APPENDIX D INFORMATION DIRECTORY	ERROR! BOOKMARK NOT DEFINED.

INTRODUCTION

The Directors of Wearmouth Learning Trust, wish to make every reasonable effort to facilitate the use of the academies within the Trust by the Community as a whole. The purpose of this policy is to:

- provide clear guidance on lettings and the hire of school premises
- enable safe access to the school site and premises
- promote the use of school facilities by the wider community
- safeguard the interests of Trust and individual schools.

DEFINITION OF A LETTING

A letting may be defined as “any use of the school buildings and grounds by parties other than the school”. A letting must not interfere with the activities of the school.

Use of the premises for activities such as staff meetings, parents’ meetings, Governing Body meetings and extra-curricular activities of pupils supervised by school staff, fall within the corporate life of the school. Costs arising from these uses are therefore a legitimate charge against the schools delegated budget and do not require a letting agreement.

There are three types of letting agreements:

1. **Licence Agreement** – this arrangement is used when members of the public wish to use an area of the school premises for an activity. An example is the use of a pitch to play football, or use of a room for members of the public to practice sewing. A Licence Agreement should be completed which lists terms and conditions for the use of the premises. Anyone wishing to hire a room on behalf of a commercial organisation, registered charity, established group/ association or who is employed for the purposes of the activity must enter into a Transfer of Control Hire Agreement (see below). Anyone providing a service to children will also require a Transfer of Control Agreement. This agreement does not create a business tenancy.
2. **Transfer of Control Agreement** – this agreement is used when the Trust is approached by a third party to provide a service/ activity to children or members of the community on the school premises. Such activities will not be supervised by school staff. Examples include dance tuition, arts and crafts clubs, sports coaching, community groups, associations and commercial organisations.

The Trust will either share control of the premises with the provider or transfer control to the provider for times specified within the agreement. This type of agreement allows providers to use school facilities without the management or administrative time of school staff. This agreement does not create a business tenancy.

3. **Permanent Lease Agreement** – this agreement is used when the Trust wishes to have permanent groups on site who occupy parts of the premises on an exclusive basis. The school will not have access or use of a room and the occupier controls the space. An example is an independent nursery occupying a part of the school premises. A lease agreement will be required for this arrangement. The lease creates a business tenancy and will be covered by Landlord and Tenant Legislation therefore the Trust must ensure that the necessary lease agreement is drawn up based on the individual requirements of the school

EVENT NOTICES

Hirers holding an event within the school premises may require a temporary event notice. Consultation will need to take place with the school regarding such things as:

- Number of people present

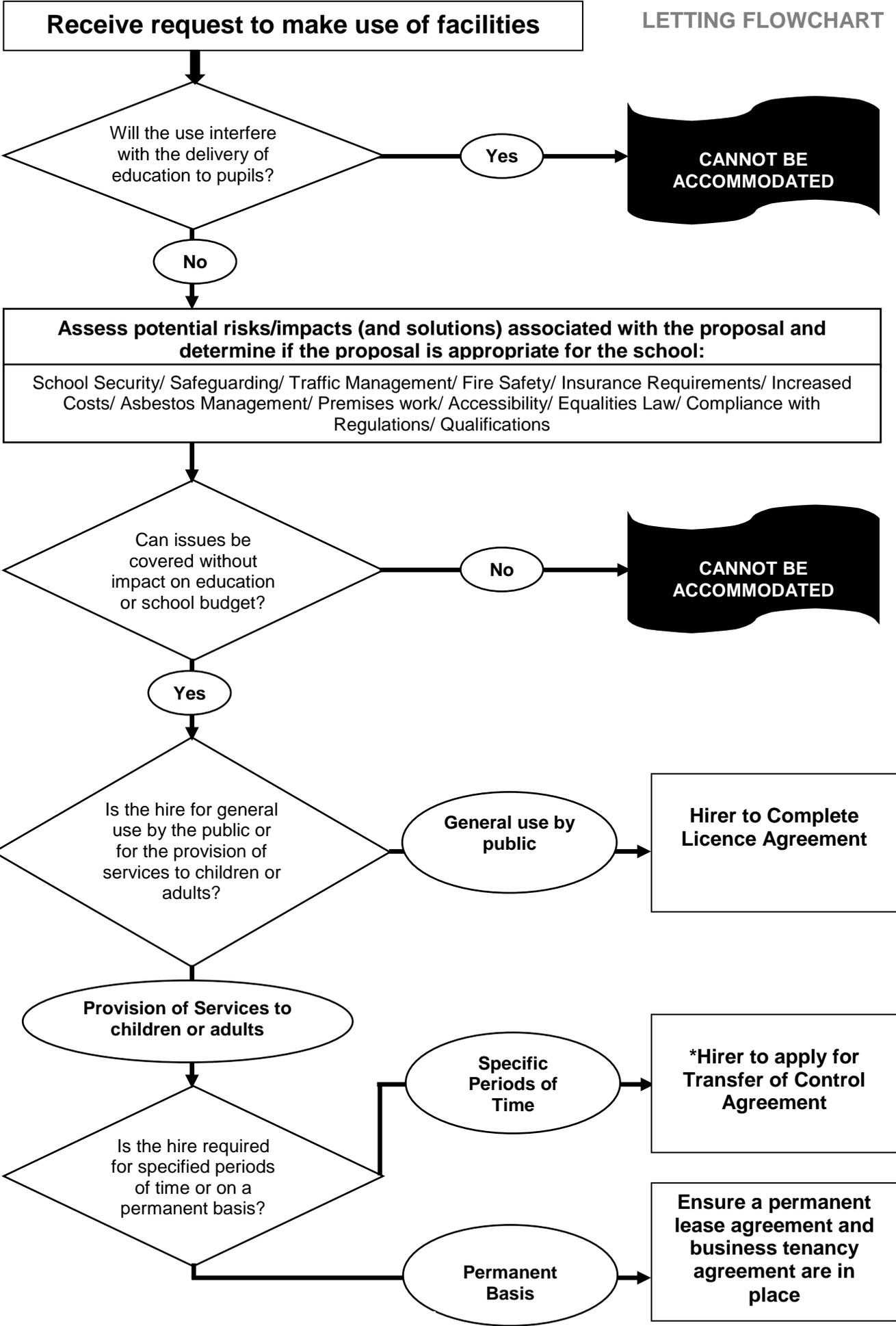
- Capacity of the Venue
- Marking of emergency exits
- Provision of emergency lighting
- Safety plans

LICENSING

Some activities and services require specific licences for example:

- Prize Bingo
- Public Entertainment
- Lotteries and amusement licence
- Theatre Licence

Contact will be made with the Council's Licensing section (561 1012) to obtain advice and the specific requirements thereof.



CHARGES FOR A LETTING

The Trust is responsible for setting charges for a letting on the school premises.

A charge will be levied which includes but is not limited to the following:

- Cost of services (e.g. heating & lighting etc)
- Cost of staffing (e.g. security, caretaking & cleaning etc)
- Cost of “wear and tear”
- Cost for use of school equipment (if applicable)

The charges will be reviewed and approved annually by the Trust Finance Committee. Current charges will be provided in advance of any letting being agreed.

The school is constrained by law to apply value added tax to all transactions where this is appropriate.

The school reserves the right to require a deposit over and above the hiring charge as a surety against damage to the premises (including any equipment) or the premises being left in an unacceptable condition incurring additional cost for cleaning, caretaking or other expenses.

The school will seek to recover any costs incurred by the school that are unavoidable and result directly from the cancellation of a letting.

LETTING TIMES, AVAILABLE FACILITIES AND EQUIPMENT

Facilities and Equipment available for hire:

- Grass Pitches
- Sports Hall
- Gymnasium
- Dance Studio
- Theatre
- Fitness Suite
- Meeting Room

Lettings Times:

During Term Time	Monday to Friday	4:00pm to 10:pm
	Weekends	9:00am to 2:00pm
During School Holidays	Monday to Friday	9.00am to 10:pm
	Weekends	9:00am to 2:00pm

Variations to the above facilities and times will be subject to the approval of the Governing Body.

SECURITY

The Trust Board will determine the security risk for each letting and will be responsible for allocating a continuous security presence or other control measures.

MANAGEMENT AND ADMINISTRATIONS OF LETTINGS

The responsibility for the management of lettings lies with Trust Board. The day to day management decisions are made by the Local Governing Body or the Executive Headteacher. Direct onsite responsibilities lie with the HR & Business Manager and the Site Manager.

The Executive Headteacher will need to be satisfied that the Hirer is able to manage the let in accordance with school principles and policies before agreeing to accept the booking. If the Executive Headteacher does not feel that satisfactory management procedures will be in place during the let they should not accept the booking application. If the Executive Headteacher has any concerns about whether a particular request for a letting is appropriate or not, he/ she will consult with the Chair of the Governors.

An annual report on lettings will be made to the Trust Finance Committee and will include information on users, outcomes, finances, incidents and accidents, enquiries, and any lettings refused.

ADMINISTRATIVE PROCESS

An individual or organisation should approach the HR & Business Manager to request the use of facilities.

Using the flowchart, the Executive Headteacher or HR & Business Manager will determine if the let can be accommodated and what type of agreement is appropriate; Licence Agreement, Transfer of Control Agreement or Permanent Lease Agreement. Risks associated with the let will be considered and acted upon as appropriate.

Licence Agreement

1. The Applicant should sign the Licence Agreement, acknowledging and agreeing to adhere to the stated terms and conditions (*see Appendix A*).
2. The Hirer should pay the fee prior to the date of the hire.

Transfer of Control Agreement

1. Applicants should complete the application form and return to the HR & Business Manager or Executive Headteacher (*see Appendix B*).
2. The Executive Headteacher or HR & Business Manager will consult with the Local Governing Body (or delegated committee) to assess the potential risks and solutions associated with the proposal and determine if the proposal is adequate for the school.
3. Where applicants are unsuccessful, the reason should be stated on the application form and returned to the applicant. The applicant may wish to appeal the decision using the appeals procedure set out in this policy.
4. Where the application for a let is accepted, the applicant will be contacted and asked to enter into a Transfer of Control Agreement (*see Appendix C*).
5. All documentation required from the applicant for the Transfer of Control Agreement should be checked and verified by the Executive Headteacher or HR & Business Manager.

6. Once the Transfer of Control Agreement has been signed, the hirer should pay the letting invoice, in full, 7 days prior to the date of the let, or before the first occasion if it is a block booking.

Permanent Lease Agreements

1. The Executive Headteacher or HR & Business Manager will consult with the Trust Finance Committee to assess the potential risks and solutions associated with the proposal and determine if the proposal is adequate for the school.
2. The Trust Finance Committee should ensure the necessary lease agreement based on the individual requirements of the school is drawn up.

For all agreements the school should maintain a suitable record of current lettings and amounts due. For regular users or block bookings, income due and income received should be recorded, e.g. on control sheets, allowing balances outstanding to be clearly identified. Where lettings income due remains outstanding, prompt and appropriate recovery action will be taken.

CANCELLATIONS

The Trust will seek to recover any cost incurred by the school which are unavoidable and result directly from the cancellation of a letting as set out in the charging policy.

The Trust reserves the right to terminate a hiring agreement at any time on reasonable grounds.

The Trust reserves the right to cancel any booking based on reasonable grounds and shall seek to give one months notice in writing for any cancellation.

APPEALS PROCEDURE

1. If a Hirer has a letting application rejected or agreement withdrawn, they have a right to appeal to the Local Governing Body.
2. The appeal should be made in writing and will be presented at the next full meeting of the Local Governing Body.
3. The Hirer will be informed of any action and/or decision taken by the Local Governing Body.
4. The Local Governing Body's decision is final.

COMPLAINTS PROCEDURE

1. If a Hirer is dissatisfied with any aspect of the service it has received they should at the earliest opportunity attempt to resolve this with the staff of the school. Every effort will be made to resolve disputes between the parties quickly and effectively:
2. In the event of a dispute, the complainant should proceed as follows: -
 - a. The HR & Business Manager should be contacted to try to resolve the problem
 - b. If the matter cannot be resolved satisfactorily the Executive Headteacher should be contacted.
 - c. If the matter remains unresolved, the complaint must be submitted in writing to the Executive Headteacher.

- d. Where the Executive Headteacher has failed to satisfy the complainant, the Local Governing Body (or a committee or an individual governor where delegated to do so) may review the case.
3. Having exhausted the steps above, all unresolved disputes or differences shall be referred to a single arbitrator who shall be determined by the Trust Board.

APPENDIX A LICENCE AGREEMENT

(Including Terms and Conditions)

LICENCE AGREEMENT

Wearmouth Learning Trust (the Licensor) permits the use of space known as **[Insert area of school]** (the Premises) within **the school** (“the building”)

To: **[Insert name of Hirer]** (the Licensee)

Of: **[Insert Address of Hirer]**

On the terms and conditions printed herein.

The Licence Period

Period from the: **[Insert date from]**

To the: **[Insert date to]**

Subject to the conditions herein.

The Licence Fee

Licence Fee £ _____ (To be paid prior to hire)

Permitted Use

Permitted Use means _____

Signed on behalf of the Licensor: _____

The Licensee hereby confirms that he/she has read and understand these terms and conditions and agrees to be bound by such terms and conditions from the commencement of this Licence Agreement.

Print Name: _____

Signed (Licensee): _____ **Date:** _____

LICENCE AGREEMENT TERMS AND CONDITIONS

1. LICENCE FEE

The Licence Fee is payable prior to the hire.

2. USE AND ACCESS

The Licensor permits the Licensee to access and use the Premises on the times specified for the Permitted Use only. The Licensee shall not use the Premises for any illegal purpose nor for any purpose or in a manner that would cause loss, damage, injury, nuisance or inconvenience to the Licensor or any other occupiers within the Building or any owner or occupier of neighbouring property.

The Licensor retains the right to access the Premises at all times during the Licence Period.

The Premises and the License Areas remain in the Licensor's legal possession notwithstanding the Licensee's occupation thereof during the License Period and that such occupation shall not be deemed to constitute or create any lease tenancy or agreement for the same.

3. CANCELLATION

The Licensee will pay the full cost of the hire for bookings cancelled less than 24 hours before commencement.

4. CONDITION AND DAMAGE

The Licensee will keep the Premises in a clean and tidy condition when in occupation. The Premises must be left in the same condition as before the hire commenced and each party will agree to the condition prior and after the hire.

Any damage that occurs during the Licence Period in or to the Premises will be the responsibility of the Licensee and the Licensee shall pay to the Licensor the cost of making good any such damage.

5. PUBLIC LIABILITY INSURANCE

The Licensee will hold public liability insurance in respect of their occupation of the Premises and will provide a copy of their public liability insurance of £5 million for every hire. A copy of which will be kept by the Licensor.

The Local Governing Body may at its discretion waive this requirement where the Licensee is an individual or small informal group of individuals (not using the school buildings for commercial or business purposes) who do not hold public liability insurance and who, because of this informal nature, may find it difficult to obtain.

6. INDEMNITY

The Licensee shall keep the Licensor indemnified against all expenses, costs, claims, damage and loss (including any diminution in the value of Premises and loss of amenity of the Premises) arising out of the use of the Premises by the Licensee or from any breach of any of the terms and conditions of this Licence by the Licensee, or any act or omission of the Licensee, or any other person on the Premises with the actual or implied authority of any of them.

7. ASSIGNMENT AND ALTERATIONS

This Licence Agreement is personal to the Licensee and the Licensee shall not assign or underlet or part with or share possession or occupation of the Premises. The Licensee shall not make any alteration or addition to the Premises and shall not affix any items to the Premises.

8. COMPLIANCE WITH HEALTH AND SAFETY, STATUTE AND REGULATIONS

The Licensee must comply with all laws relating to the Premises and the occupation and use of the Premises by the Licensee, including but not limited to Health and Safety legislation.

A register must be taken at each session and provided to the Licensor.

Risk Assessments and DBS clearance reference numbers and dates required by the Licensee must be supplied to the Licensor if so required.

Any portable equipment that is to be used must have a current PAT test certificate.

The Licensee must ensure they are aware of the fire exits and the evacuation procedure on hearing an alarm.

9. LOSS

The Licensor does not accept liability for loss or damage to property brought onto the Premises by or on behalf of the Licensee or any of its servants, agents or invitees, however caused.

10. TERMINATION

Should the Licensee be in breach of the terms and conditions of this Licence at any time then this Licence can be terminated immediately upon notice by the Licensor to the Licensee and no Licence Fee or part thereof will be refundable.

The Licensor can terminate this agreement upon one weeks notice to the Licensee whereupon this Licence shall cease and determine.

Any termination of this Licence shall be without prejudice to the rights of any party against the other in respect of any antecedent breach of the terms and conditions.

12. FORCE MAJEURE

The Licensor shall not be liable for any loss or damage which the Licensee suffers as a direct or indirect result of the performance of this Licence being prevented hindered or delayed by reason of any act of God riot strike or lockout trade dispute or labour disturbance accident breakdown of plant or machinery fire flood difficulty in obtaining workmen's materials or transport electrical power failures or other circumstances whatsoever outside its control and which affect the provision by the Licensor of access to or use of the space.

13. ADVERTISING

The Licensor must approve all advertising and posters concerning the use of the Premises.

**APPENDIX B TRANSFER OF CONTROL
AGREEMENT APPLICATION FORM**

TRANSFER OF CONTROL AGREEMENT APPLICATION FORM

1. Your Details:

Name:

Address:

Date of Birth:

Tel:

2. Is the application for: (please circle)

- A) a company/ business
- B) a charity
- C) other organisation (please specify).....
- D) you, the individual completing the application form

3. Organisation Details:

(Please complete if you answered A, B or C above)

Name of organisation:

Registered Number:

Address:

Tel:

What is your association with the organisation? (please circle)

- A) an employee (please state occupation).....
- B) the secretary
- C) the treasurer
- D) the owner
- E) a partner
- F) other (please give full details).....

4. Purpose

What is the purpose of the hire (i.e. what activities will be undertaken)?

5. Insurance Requirements

Essential:

Is there Public Liability insurance (to a minimum of £5 million) which adequately covers the proposed activities? (Yes/ No)

If required:

Is there Employee Liability insurance (to a minimum of £10 million) which adequately covers all employees? (Yes/ No)

Please provide a copy of the insurance policy schedules as evidence

(Please note the insurance policy schedules should be in the name of the contracting party i.e. the name of the organisation. The schedules should only be in the name of an individual if you answered D to question 2).

6. Accommodation

What accommodation is required for the hire?

7. Dates and Times

What are the dates and times required?

8. Facilities

What facilities will be required? (e.g. toilets, entrances/ exits, kitchens, car parks etc):

9. Attendees

Approximately how many people will be attending?

What is the age range of those attending?

10. Qualifications

Please list the qualifications required to deliver the activity/ service:

-
-
-
-

Do the provider(s) have first aid certificates? (Yes/ No)

Please provide copies of qualifications for all providers as evidence. All qualifications must be in date.

11. Health and Safety

Are there generic risk assessments which cover the activities which will be undertaken?

Please provide a copy as evidence

Please note that if this application is successful the risk assessments should be reviewed to assess the environment/ location where the activities will be held.

12. Vulnerable Groups

Please provide evidence of the following documents if delivering activities/ services to vulnerable groups:

Safer recruitment checks – required for all providers

- Current Enhanced DBS– number, date and clearing house
- Right to work in the UK
- Identity

Safeguarding Training – required for all providers

- Introduction to Working Together to Safeguard Children/ Keeping Children Safe in Education
- Certificate of attendance at Safer Recruitment Training (as appropriate)

Safeguarding Procedures including:

- Contingency arrangements for emergencies
- Child protection policies
- Correct ratio of child to adults
- Procedures for waiting with children until parents pick them up
- First aid Training certificates

FOR SCHOOL USE ONLY :

Date Application Received:

Date Application Reviewed:

Application Approved? (Yes/ No)

Reason why application was not successful:

APPENDIX C TRANSFER OF CONTROL AGREEMENT

(Including Guidance Notes & Checklist)

Transfer of Control Agreement (TOCA)

INTRODUCTION

The Trust Board controls and is responsible for school premises both during and outside of school hours. The exception to this exists if a Governing body has entered into a "Transfer of Control Agreement" with another party.

A Transfer of Control Agreement (TOCA) is the way in which the Trust Board can permit a third party to use part of school premises by transferring control of that area to the third party for a given period of time. It does not create a business tenancy

A TOCA creates legal rights and responsibilities and so the parties need to consider whether they should take independent legal advice about entering into it. The individuals signing on behalf of the 'User' may be taking on personal liability by doing so.

The precedent TOCA is intended to set out standard terms which governors and third parties might consider adopting, with spaces for information that the Trust Board and the third party can add based on what they have agreed. These Notes provide guidance on the standard terms and the areas where the parties need to add extra information.

NOTE 1 - THE PARTIES

The "User" is the legal entity in which Wearmouth Learning Trust is contracting with i.e. a registered commercial organisation or charity.

If the User is an organisation, the name of the organisation, registered address and registration number should be stated as the contracted party.

If the User is not a registered organisation (i.e. partnership or club) it is important to set out the name and address of the individual who is authorised to sign the agreement on behalf of the User.

If the User is an individual, set out their name and address.

NOTE 2 - THE TRANSFERRED AREA

It is useful to attach a plan to the TOCA marking the area that is being transferred. If this is not possible, define the transferred area as clearly as possible to avoid confusion. It is also important to set out what additional areas the user can have access to, such as toilets and changing rooms and to indicate if any particular routes need to be taken.

NOTE 3 - NOTICE PERIODS

There is no set period of notice that must be given so the Trust Board and the User can decide this between themselves. However, it is important that notice periods are reasonable.

NOTE 4 – THE FEE

Set out any other arrangements that the parties have agreed, for example, method of payment or day of week for payment.

If the Trust Board is not charging a fee, include a nominal amount (E.g. £1) so that the other terms and conditions can still be legally-binding on the parties.

NOTE 5 – HEALTH AND SAFETY ARRANGEMENTS

Set out any specific arrangements that the parties have agreed, for example, in relation to equipment that the Trust Board are permitting the User to make use of.

NOTE 6 – INSURANCE

The insurance policies must be in the name of the User as stated in the contract. Where the arrangements are complex or unusual it is sensible to check with the Local Authority's Insurance Section that the insurance cover is adequate.

NOTE 7 – VAT

If in doubt, seek advice on this clause and the applicability of VAT to the arrangements.

NOTE 8 - SIGNING THE TOCA

To formally complete the TOCA, both parties need to sign it. Normally, the TOCA should be dated with the date that the last party signs it, as this is the date on which the agreement is made. The date of the agreement is set out at the start of the document.

NOTE 9 – POLICIES AND PROCEDURES

There are a number of policy/ procedure decisions to consider when developing a TOCA. The following should be included in the TOCA agreement:

- Description of the staffing arrangements during the let
- Description of the employment arrangements
- Contingency plan for school closure (both temporary and permanent)
- Safeguarding arrangements
- Equal opportunities policies
- Restrictions/ priorities for particular user groups
- Health and safety responsibilities
- Financial charging arrangements for management and overhead costs
- Data protection, confidentiality and records retention.

NOTE 8 - SUPPORT

The Trust Board must ensure it takes any necessary professional advice to develop the agreement eg Property Services and/or legal.

TRANSFER OF CONTROL AGREEMENT CHECKLIST

Information for Schools/Trust Board:

- Trust Board has Lettings Policy in place
- Intended use meets with Lettings policy
- Facilities identified for hire can be let to the third party with no impact on school service delivery and can be accessed without interaction with students (unless after school provision)
- Consult with relevant bodies to assist with the development of the agreement if required

Information Required for Transfer of Control Agreement

- What time is the facility to be hired out?
- What access is required for the hire i.e. toilets/entrances/exits/kitchen?
- Which areas of the school can be securely locked to ensure the school is secure but whilst still maintaining fire exits
- Fee Level to be assessed
 - Are there any additional costs directly relating to letting i.e. caretaker overtime
 - What are costs of the facilities- contribution to utilities/cleaning.
 - Is there a fee to be charged on top of the costs as a profit?
- When the information below is collated and copies held a transfer of control agreement can be completed and issued to hirer along with Building Health and Safety information
- Signed agreement is to be kept on file with copies of documentation and reviewed annually

Evidence Required from Hirer

- Copies of the following are held:--
 - Public Liability Insurance minimum of £5million
 - Risk Assessments
 - Safer Recruitment Checks
 - Current Enhanced DBS – number, date and clearing house
 - Right to work in UK
 - Qualifications relevant to service delivery
 - Identity checks
 - Safeguarding Training
 - Introduction to Working Together to Safeguard Children/Keeping Children Safe in Education Training
 - Certificate of attendance at Safer Recruitment Training for those members of staff with Recruitment and Selection responsibilities.

- Safeguarding Procedures (incl. but not limited to);*
 - Contingency arrangements for emergencies
 - Child protection policies
 - Correct ratio of child to adults i.e. minimum 2 adults
 - Group/hirer responsible for children until parents pick them up
 - First Aid and Health and Safety Policy
 - Emergency Contact Details
 - First Aid Training certificates
 - Recruitment and Vetting procedure for those organisations responsible for the recruitment of staff.

*only relevant when hirer is dealing with Vulnerable Groups

TRANSFER OF CONTROL AGREEMENT

This **AGREEMENT** is made on [\[Insert Date\]](#)

between:

(1) [Wearmouth Learning Trust](#) on behalf of [\[Insert name of School\]](#)

and

(2) **Delete as appropriate:**

(i) If User is a company, business or charity:

[\[Insert name of the organisation\]](#)

[\[Insert registered address\]](#)

[\[Insert registration number\]](#)

**for childcare please include Ofsted Registered Name*

(ii) If User is an unregistered organisation e.g. group, association, partnership:

[\[Insert name of individual authorised to sign the agreement\]](#)

[\[Insert address of authorised individual\]](#)

On behalf of [\[Insert name of the organisation\]](#)

(iii) If User is not acting on behalf of an organisation

[\[Insert name of individual\]](#)

[\[Insert address of individual\]](#)

It is agreed as follows:

1. Aim

1.1 This is a Transfer of Control Agreement made under Schedule 13 to the School Standards and Framework Act 1998 ("the 1998 Act").

1.2 The Trust Board enter into this Agreement in order to enhance the use of [\[Insert Name of School\]](#) for the wider benefit of the community.

1.3 The User enters into this Agreement to further the provision of community facilities.

1.4 This Agreement sets out the arrangements, terms and conditions whereby the Trust Board transfer control of part of the School premises to the User.

2. Authorised representatives

2.1 For the School, [\[Insert name of person on behalf of school who will manage/monitor the agreement\]](#) or such other person who may be appointed in her place will manage the Agreement.

- 2.2 For the User, [\[Insert Name of person on behalf of the organisation\]](#) or such other person who may be appointed in their place will manage the Agreement.
- 2.3 Each party to this Agreement will notify the other in writing of any changes to the person or address of the authorised representatives.

3. Transfer of Control

- 3.1 The Trust Board agrees to transfer to the User control of [\[state which areas of the school the agreement will cover, include outdoor spaces\]](#) from [\[Insert date/time on which the agreement will commence\]](#) to [\(date/time it will end\]](#)
- 3.2 The User's control of the Premises ("the Period of Control") will be as follows:
[\[State area of the school and times of availability – not just opening times, also state and wraparound time for setting up/clearing away\]](#)

Example:

- [Community room – 7.30am - 8.55am and 3.10pm - 6pm during term time](#)
 - [Halls, courts, field – 3.15pm - 6pm during term time](#)
 - [Community room – 7:30 – 6:00p.m. during school holidays](#)
 - [Halls, courts, field - 7:30 – 6:00p.m. during school holidays](#)
- 3.3 The provisions in clause 14 of this Agreement for the occasional control by the Governors replace the standard provisions for such control, which are set out in Schedule 13 of the 1998 Act.
- 3.4 Words and phrases used in this Agreement will where appropriate have the meanings given to them in the 1998 Act.
- 3.5 The Trust Board retains the right to vary the hours stated within this agreement and that the premises identified to be used may be varied to comparable space within the School as the Trust Board may designate from time to time.

4. Period of Agreement

- 4.1 This Agreement will start on the date set out at the top of the first page of the Agreement and remain in effect until [\[Insert end date for this current agreement- no more than one year\]](#) ("the Term") unless ended earlier under clauses 6, 7 or 10.

5. Permitted Use

- 5.1 The User may use the Premises during the Period of Control for the [\[Insert purpose of the provision e.g. Childcare, Holiday Clubs, Extended Services Activities\]](#) ("the Permitted Use") [in accordance with the terms of registration imposed from time to time by the registration authority under Part XA of the Children Act 1989] [\[Delete reference to Children Act if not applicable\]](#)

6. Ending the Agreement

- 6.1 The Trust Board may end this Agreement by giving the User three months written notice to expire at any time.
- 6.2 The Trust Board may end this Agreement immediately by notice given by them:

- 6.2.1 if at any time any payment due under this Agreement remains unpaid for more than 28 days after becoming due
 - 6.2.2 if the User fails to remedy any breach (capable of remedy) of any of the stipulations and conditions contained in this Agreement after being required to remedy such breach by [28 days] notice in writing
 - 6.2.3 if the User breaches any of the stipulations and conditions in this Agreement which is in the opinion of the Trust Board incapable of being remedied and the Trust Board state this in a notice given by them.
 - 6.2.4 in extreme cases the Trust Board may terminate this agreement summarily without notice and the user's attention is specifically directed to paragraph 8 of this agreement below.
- 6.3 The User may end this Agreement at any time by giving three calendar months written notice to the Trust Board.

7. Fee

- 7.1 The User agrees to pay to the Trust a fee for the use of the Premises during the Period of Control ("the Fee") as follows:
- 7.1.1 The Fee will be the sum of £ *[Insert sum]* per *[Insert period]* payable in advance.
 - 7.1.2 The Fee may be varied by the Trust at annual intervals from the date of this Agreement. The Trust will give 28 days notice in writing of a variation to the Fee. If the User does not wish to accept the Fee variation then it may give 28 days notice in writing (before the Trust's notice runs out) to end the Agreement and in the intervening period the then current Fee will continue to apply.

8. Safeguarding Vulnerable Groups and Child Protection

(See Transfer of Control Agreement Checklist)

- 8.1 In addition to the user's liability in respect of health and safety concerns referred to at paragraph 9 and elsewhere in this agreement, the user specifically undertakes to ensure suitable arrangements are in place with regard to safeguarding children, vulnerable adults and child protection in line with the requirements of the Children Act 1989 & 2004, Education Act 2002, Safeguarding Vulnerable Groups Act 2006, and the guidance set out in Keeping Children Safe in Education (September 2017) as well as adhering to Sunderland Safeguarding Children's Board Procedures and all other relevant legislation and any relevant legislation that supersedes this existing legislation.

For childcare provision all policies and procedures including safeguarding must be in line with the requirements of both the Early Years and Childcare Registers as well as adhering to Sunderland Safeguarding Children's Board Procedures.

For Extended Service Provision where the provider is working with a vulnerable group, the user must adhere to safeguarding and safer recruitment requirements and provide the school with evidence of safer recruitment checks i.e. identity, qualifications suitable for the activity, DBS enhanced check (number, date and

clearing house), right to work in UK, safeguarding training certificate from a legitimate awarding body e.g sporting bodies, safeguarding policies with procedures for providers working with Children and Young People the policies and procedures need to be ratified by Sunderland Safeguarding Children's Board (SSCB).

For any service delivery Safer Recruitment practices must be in evidence and anyone in the organisation responsible for recruiting staff, students or volunteers must attend Safer Recruitment training.

- 8.2 In addition to the general right of termination set out at paragraph 6, the Trust specifically reserves the right to terminate this agreement with immediate effect if the user does not have the arrangements referred to at paragraph 8.1 in place, and fails to take immediate steps to put them in place. In such circumstances the governors will not be liable for any loss financial or otherwise incurred by the user.

9. Health and Safety Conditions

For the duration of the Period of Control the User must ensure the following:

- a) Normal emergency procedures are followed.
- b) Health and Safety requirements in relation to the Early Years and the Childcare Register are followed. Delete as appropriate
- c) Risk assessments are carried out, recorded and updated.
- d) A First Aid Kit is provided.
- e) A member of staff with a paediatric first aid/first aid certificate ([delete as appropriate - paediatric first aid is only a requirement for childcare on the Early Years register](#)) is on the premises at all times during opening hours.
- f) Any equipment brought onto the school premises must be approved by the school.
- g) All staff are familiar with emergency equipment, such as fire extinguishers, alarms, mobile telephone and first aid facilities.
- h) An emergency evacuation procedure is established. This will detail who will be responsible for taking control, calling emergency services and where to assemble. Consideration must be given to the needs of disabled participants. Fire practice must be undertaken on a half-termly basis and records kept as evidence.
- i) Facilities and equipment (if made available) are used in a responsible manner, in an orderly way and for the purposes for which they are hired and do not compromise the safety of the users or the Premises and equipment.

This includes ensuring that:

- Alcohol is not consumed
- Emergency exits, fire extinguishers, alarm points are not obstructed.
- Adequate walkways are available to allow free and easy access and egress.
- No gas cylinders or canisters are used inside the Premises or on School grounds
- Combustible materials are not placed adjacent to heat sources
- Equipment is used for the purpose for which it was designed.
- Electrical equipment is PAT tested and complies with the British standards then applicable
- Flammable or hazardous substances are not to be used.

- No open fires, candles or unauthorised electrical equipment will be used on the Premises
 - No smoking on the school site.
- f) Furniture, instruments or equipment belonging to the User may be left or stored on the Premises if agreed by the Executive Headteacher.
- h) The Premises and School premises must be vacated on time at the end of the Period of Control and left in a clean and tidy condition and the Premises must be cleaned thoroughly (including toilets) on a daily basis.

10. Damage to Property

- 10.1 The User undertakes either to make good or to reimburse the Trust for the cost of making good (as the Trust Board directs) any damage to the property of the Trust caused by the User, their staff, visitors or clients.

11. Liability of the Parties and Indemnity

- 11.1 Except in so far as the Unfair Contract Terms Act 1977 requires otherwise neither Sunderland City Council nor the Trust Board will be liable for any injury (including injury resulting in death) or damage to or loss of property, which may occur to, or be sustained by the User, their assistants, employees, volunteers or agents, children attending any session or others entering the Premises (with the exception of death or injury which may occur by reason of the negligence of Sunderland city Council or the Governors or their servants or agents acting within the scope of their authority).

The User must indemnify and keep indemnified the Trust, Sunderland city Council, and their employees and agents from and against all actions, claims, proceedings, costs, damages, liabilities and expenses in respect of injury to any persons (including injury resulting in death) and damage to and loss of property which may arise from, or in consequence of, the exercise or purported exercise of the hiring (with the exception of death or injury which may occur by reason of the negligence of the Trust or Sunderland City Council or their employees or agents acting within the scope of their authority).

12. Insurance

- 12.1 The User must maintain public liability insurance in the sum of five million pounds per claim. The user must provide employer's liability insurance in the sum of ten million pounds per claim if so applicable.
- 12.2 The User must pay all premiums or other costs arising in the provision of such policies of insurance referred to in clause 12.1 above and ensure that the policies or certified copies are produced to the Governors if requested.

13. School Security

- 13.1 The Trust agrees to make arrangements for the Premises to be opened and locked after each Period of Control and the User agree to notify the Trust or it's Authorised Representative where any session is to start late or end early.

14. Temporary Unavailability of Premises/Control by the Governors

- 14.1 The Executive Headteacher may give verbal notice to the User that the Premises are temporarily unavailable and will be controlled by the Executive Headteacher in the following instances:
- (a) Where the School is closed for any reason;
 - (b) Where the Premises are in the Executive Headteacher's opinion unsafe to be used by the User;
 - (c) Where there are emergency circumstances, which require the use by the School of the Premises.
- 14.2 The Trust may give three calendar months notice in writing that the Premises are to be temporarily unavailable to the User where the Premises are required by the Trust and will state in such notice the period during which the Premises are to be unavailable.
- 14.3 In situations where there is a temporary unavailability of premises or an interruption in the use of the premises then the Trust Board is not liable to pay any compensation in respect of any losses, loss of profit or damages incurred

15. Access and Car parking

- 15.1 Staff may park in visitor parking spaces.

16. Nuisance

- 16.1 The User must not (and must ensure that any person entering the Premises during the Period of Control does not) cause any nuisance or disturbance to the Trust or the School or neighbours.

17. Additions and Alterations

- 17.1 The User will make no alterations or additions to the Premises.

18. Contract (Right of Third Parties) Act 1999

- 18.1 Nothing in this Agreement will give directly or indirectly to any third party any enforceable benefit or right of action against the Parties and such third parties will not be entitled to enforce any term of this Agreement. This is the case notwithstanding the provisions of the Contracts (Right of Third Parties) Act 1999.

19. Licence

- 19.1 The Parties agree that this Agreement is a licence and does not create a tenancy between the User and the Trust Board or Sunderland City Council.

20. Disputes

- 20.1 The Parties will use their best endeavours to resolve by agreement any dispute between them with respect to any matter relating to this Agreement.

- 20.2 If either Party considers that the other has failed to comply with the terms of this Agreement, then the following will happen:-

- 20.2.1 The matter will be discussed at a meeting between the Parties within 14 days.

20.2.2 If not resolved by the process set out at 20.2.1, then a meeting is to be arranged between the Parties and a representative of the Trust Board. Again this may be called at the request of either Party and must take place within 21 working days.

21. Assignment and Sub-hiring

21.1 The User must not assign or sub-hire the whole or any part of the Premises.

22. VAT

22.1 If any supply made or referred to in this Agreement is or becomes chargeable to VAT, then the Party receiving the supply ("the Recipient") will, in addition, pay the Party making the supply, ("the Supplier") the amount of the VAT, against receipt by the Recipient from the Supplier of a proper VAT invoice for the supply.

23. Notices

23.1 To give notice under this Agreement, a letter must be delivered personally or sent by pre-paid first class post to the address below or to any other address given in writing. A notice delivered by hand is served when delivered and a notice sent by first class post is deemed served 48 hours after posting.

School Address:

User Address:

24. Statutory compliance

24.1 Each Party warrants and undertakes to the other that it will comply with all laws, rules, regulations, decrees and other ordinances issued by any supra-governmental, governmental, state or other authority relating to the subject matter of this Agreement and to the performance by the Parties hereto of their obligations under this Agreement. This includes but is not limited to complying with:

- (a) Health and Safety at Work Act 1974
- (b) Equality Act (2010)
- (c) Care Standards Act 2000
- (d) Data Protection Act 1998

25. Change of Post-holders

25.1 The User agrees to notify the Trust Board in advance if the person in the role of Director or Childcare Director is to cease to hold that post and to provide the name of the new post holder and to enter into any assignment of this Agreement or a new agreement (at the Trusts discretion) to give effect to the change in post -holder.

26. Loss

26.1 The Trust Board and the Council of the City of Sunderland does not accept any liability for loss or damage to property brought onto site by the user or any of its servants, agents and invitees howsoever caused.

27. General

27.1 In this Agreement, references to legislation include all amendments, replacements or re-enactments and all regulations and statutory guidance given or made under the legislation.

AGREED by the Parties on the date set out at the start of this Agreement

.....

Signed by
On Behalf of the Directors of Wearmouth Learning Trust

.....

Signed by
[Insert Position]
Authorised signatory of [Insert name of Organisation]