

Appendix D13

When do you need a Lease or a Hiring Agreement and / or a Contract?

What documents does the school need to have in place when other external agencies will be delivering services in / on the school premises?
e.g. Before school / After school clubs, child care, nursery, early years provision, Adult / Community groups.

- 1 The first fundamental question the school senior management team / Governing body need to consider is: -
“What degree of management control do you want over the service being provided by the external organisation using the school premise?”
 - a. None, they will be totally independent from the school. (If you are sure then no contract is needed, go to Question 2 below.)
 - b. What are the school’s objectives of having this organisation on site? Are they in line with the school development plan, Local Area Agreement and / or the Children and Young People’s Plan (extended schools or Children Centre) or other HCC responsibility?
 - c. Does the school want to be have an input in the running / management of the organisation’s service being provided on site, in terms of, for example: -
 - Service quality
 - Health and safety
 - Volume / Capacity
 - Staffing ratios
 - Reputation
 - Child protection, etc.
 - Finances
 -

If the answer to any part of (c) is yes, then a formal service contract will need to be agreed between the school and the organisation.

- 2 The second question is then: -
“Is the premises (or part of) to be used by the external organisation, surplus to the schools requirement?”
 - a. If **“Yes”**, this will require formal confirmation from CSF School Access Team. The Land Lord (for Community Schools - HCC Corporate Property Team) will then be responsible for the production of a “Lease”. If the space is not surplus to requirements it is important that the external organisation are not given sole use of the space but are given limited access at specified times through the hire agreement.
 - b. If **“No”**, and they do not have sole use of the premises then a “hire” agreements is required.

NOTE: If both, a Contract and Lease / Hire agreement, are required then it is important these 2 documents are drawn up to match each other. Some clauses such as the termination clauses may need to be identical.

For more detail see the chart on the next pages.

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School	Relationship between school and organisation	Organisation / Provider	Typical Legal Documents required:	Rent
Community Schools	1. No service management Link	Private Organisation , uses premises on schools site which have been declared surplus to requirements by School & CSF. Private organisation is totally independent of school.	Requires "Lease Agreement" for the premises to be in place. Drawn up by HCC Corporate Property (Landlord) in consultation with School and private Organisation	Typically full market rent should be charged by HCC.
	2. No service management Link	Voluntary Sector Organisation , uses premises on schools site which have been declared surplus to requirements by School & CSF. Private organisation is totally independent of school.	Requires "Lease Agreement" for the premises to be in place. Drawn up by HCC Corporate Property (Landlord) in consultation with School and private Organisation	May be entitled to rent reduction if service provided to local community is in line with HCC's targets, under HCC's Voluntary Organisation Service Property Strategy.
	3. No service management Link	Private or Voluntary Sector Organisation, uses premises on schools site for a limited time only, school still uses it other times. Private or Voluntary organisation is totally independent of school.	Requires "Hiring Agreement" for the premises to be in place. Drawn up by school - see advice in CSF Property Matters Manual.	Fees to be negotiated between parties and formalised in the Hire agreement
	4. Service is provided by external organisation on behalf of / or for the school as part of the school's curriculum or Extended day provision or as part of a Children's Centre provision.	Private or Voluntary Sector Organisation	If service provider is hiring / leasing premises then a Lease or Hire agreement with terms and conditions matching those in the service contract covering the service to be provided.	May be entitled to rent reduction if service provided to local community is in line with HCC's targets, under HCC's Voluntary Organisation Service Property Strategy.
			If service provider is not hiring / leasing premises then only a service contract covering the service specification, terms and conditions needs to be provided.	Not Applicable
5. School has strong links though membership of the Voluntary Committee constitution.	Service is provided by Voluntary Committee, initially set up by School and funded separately from the school budget, to run club / activities as part of the school's curriculum or extended day provision.	Good practice suggests that to protect the future a written agreements for both hiring and service definition (contract) be produced as in (4) above.	Fees to be negotiated between parties and formalised in the Hire agreement.	
Foundation / Voluntary Aided / Voluntary Controlled	6. See examples 1 - 5 above	See examples 1 - 5 above	As above, however, the Landlord is: <ul style="list-style-type: none"> o Foundation – The Governing Body o VA / VC: <ul style="list-style-type: none"> - The Land is owned by Trust / diocesan Board - The Playing fields are owned by HCC. 	See examples 1 - 5 above

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Lease Agreement: Where the area of school premises to be used by an organisation has been declared surplus to the schools requirements by school and CSF School Access Team. The Lease agreement needs to be drawn up by the Landlord in consultation with the school and external organisation. See **Schools Commissioning Toolkit - Section 4.8.7 “Typical Terms / Matters to Consider - Lease”**

The Landlord

- For **Community Schools** the landlord is HCC – therefore schools should contact:
Head of Corporate Estate, Hertfordshire Property, County Hall, Hertford SG13 8DH, tel: 01992 556223, fax 01992 556206, e-mail :dick.bowler@hertscc.gov.uk
- For **Foundation Schools** the landlord is usually the Governing Body. The governing body will therefore be responsible for drawing up any Lease.
- For **Voluntary Aided / Controlled Schools** the landlord is usually and therefore responsibility for any Lease rests with: -
 - The Trustees or Diocesan Board for the land the school is on.
 - HCC for the playing fields.

Hiring Agreement: Sometimes called a “**licence**”, Where the area to be used by the organisation will remain in use by the school at other times during the year. The Hiring Agreement should be drawn up by school. See **Schools Commissioning Toolkit - Section 4.8.6 “Typical Terms / Matters to Consider - Hiring”** and advice in the **CSF Property Matters Manual**.

Service Contract: May be needed to define the service to be provided to the school and the service terms and conditions. Termination clauses in the terms and conditions must be in line with those in the Lease / Hire agreement. Contract Templates can be found in Appendices T2 – T6, in the School’s Commissioning Toolkit.

NOTE: There may be more complex situations which need individual solutions which could combine all three documents to cover different parts of the service provision, especially where additional external funding is involved. In such cases always seek professional advice from the relevant HCC teams.

If you need assistance with the production of Hire agreements (licences), look in CSF Property Matters on the Grid, where a simple example hire forms “LS01” and terms and conditions can be found. For more complex situations further assistance can be obtained through HCC's estates consultants, Lambert Smith Hampton, Richard Fyfe, RFyfe@lsh.co.uk. There may be a charge for this service.