

<b>Committee</b> Community and Children's Services – For Decision	<b>Date:</b> 11 December 2020
<b>Subject:</b> Department of Community and Children's Services Commercial Tenants and Covid 19 – Support in the December Quarter	<b>Public</b>
<b>Report of:</b> Director of Community & Children's Services The City Surveyor	<b>For Decision</b>
Which outcomes in the City Corporation's Corporate Plan does this proposal aim to impact directly?	All
Does this proposal require extra revenue and/or capital spending?	No
If so, how much?	N/A
What is the source of Funding?	N/A
Has this Funding Source been agreed with the Chamberlain's Department?	N/A
<b>Report author:</b> Paul Murtagh, Assistant Director Community & Children's Services Nicholas Welland, Principal Surveyor City Surveyor (CS.458/20)	

### Summary

This Committee has previously approved assistance packages to support tenants during the Covid -19 pandemic for the March, June and September 2020 quarters. A summary of the assistance provided to tenants of the operational estate to date is attached as Appendix 1.

Given recent developments in terms of the availability of a successful vaccine, along with improved test and tracing, there is cautious optimism that we may now be on the path to emerge from the pandemic from the first quarter of 2021. Whilst the impact of the extremely challenging trading conditions since March 2020 may lead to further tenant default or failure, the proposal for rental assistance for December 2020 is tailored with this improving prospect in mind.

Specifically, this report seeks the deferment of the December 2020 quarter rent for all DCCS commercial tenants, upon request and without further case by case analysis, until the 24 March 2021, excepting those tenants that are willing and able to pay the quarter's rent.

In March 2021 and assuming the improving prospect of emergence from the pandemic continues, the case by case analysis of the repayment plans for tenant arrears will be resumed on all tenants to assess the full year's impact on individual tenant trading. Significantly, this case by case analysis will then include recommendations on tenant specific repayment plans for the full year period of rent due from 25 March 2020 until

24 March 2021 (which may include rent free proposals over and above previously approved where appropriate for example to include the lockdown between 5 November and 2 December) to assist individual tenants to recover from the pandemic.

Consideration has been given to adopting temporary or permanent turnover rents for retailers and hospitality tenants. The recommendations do not include 'turnover rents' as these are not considered appropriate given the current complexity and governance by which the DCCS /HRA budget currently manage and administer rental payments and the experience to date on the difficulty in obtaining financial information from operational tenants as evidenced by the recent, now paused, case by case analysis considering support.

Subject to approval, it is intended that the offer of deferment of all rents until 24 March 2021 will provide tenants who require ongoing support with the 'breathing space' to begin to recover from the pandemic. At the same time revised payment plans will provide more budget certainty, for both tenants and the City, for rents due in from 2021-2022 onwards, subject to these tenants surviving the pandemic trading conditions.

Please note the Appendices of this report are Non-Public by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972. They contain sensitive information to the financial or business affairs of a particular person or body (including the authority holding that information) which is exempted under the Act.

### **Recommendation(s)**

Members are asked to approve the following recommendations: -

- Deferment of the full quarter's rent due from 25 December 2020 to 24 March 2021 for all DCCS commercial tenants requesting further support of up to £407,529 (£368,504 HRA and £39,023 City Fund) until 24 March 2021, payable thereafter over 24 equal monthly payments, excepting only those tenants that have already paid or wish to pay the December quarter rent.
- Extension of all approved 12-month repayment plans for DCCS commercial tenants that are due to commence in March 2021, to now be payable in 24 equal monthly payments from March 2021, excepting only those tenants that have already paid or wish to pay this rent, or where their lease expiry falls within the 24 month period (in which case bespoke payment plans will be agreed).
- Note that the above offer to defer and further defer rents be 'automatic' i.e. to take effect only upon request by the relevant tenant and not subject to further case by case analysis, excepting only those tenants that have already paid or wish to pay the rents due from 25 March 2020 to 25 December 2020.
- Note that all tenants are expected to have been billed for the December quarter rental payments, consistent with the advice that all tenants who can pay should pay part or all the rent due.

- Note that the ‘case by case analysis’ of tenant’s financial status and trading position has been suspended until March 2021; at which point recommendations on, non- standard, tenant specific repayment plans for the full year period of rent due from 25 March 2020 until 24 March 2021 will be developed and submitted jointly by the City Surveyor’s department and the Chamberlain’s department to DCCS and this Committee for approval.

## **Main Report**

### **Background**

1. The City Surveyor provides DCCS with professional surveying and asset management advice across all its Commercial Property portfolio, including the negotiation and settlement of lease events, with the support of external agents as and when required. The City Surveyor currently handles most communications with the HRA’s commercial tenants on behalf of DCCS, including all Covid-19 support. The Chamberlain continues to provide the City Surveyor and DCCS with support, specifically in relation to financial advice, issuing of invoices and debt recovery.
2. This Committee has previously approved various assistance packages to support its operational portfolio tenants ranging from monthly payments for all tenants through to 3 month rent free periods for micro businesses (businesses with 10 or fewer employees). A summary of the assistance provided to date is attached as Appendix 1 to this report.
3. This Committee also approved that where tenants were unable to meet previously approved repayment plans (or had not yet accepted the offer) scheduled to commence in September or December, they would be given the opportunity to delay the repayment plan(s) until March 2021.
4. Despite lockdown easing in London, it is well known that many businesses and/or their premises continue to struggle due to difficult trading conditions, in particular the lack of footfall within the City due to many offices still opting to have their staff working from home. Many tenants will be unable to pay any rent until some form of normality returns and, the harsh reality is that some tenant companies are likely to fail and enter business administration. Many of the tenants are already asking for a further rent-free period to assist them during this difficult time. This comes on top of the approved support rent provided to some tenants for the March, June and September quarters.
5. The next key financial milestone is the December 2020 to March 2021 quarter rent demands, which are due to be issued at the end of this month. Officers are looking to achieve a consistent and fair approach for all operational HRA and DCCS City Fund tenants, whilst ensuring the action taken is in the best interests of the City.

### **Current Position**

6. To date tenants’ response rates to the level of rental assistance offered by the City for March and June quarter has been mixed with the current position on all support

offered to date. However, it is evident from recent tenant engagement, including a meeting with members of the Middlesex Street Estate Retail Association, that many tenants continue to face very challenging trading conditions and despite the general lack of response are likely to need further assistance to continue trading.

7. Consistent with the advice previously provided to tenants it is recommended that all tenants are billed for the December quarter rental payments, confirming the position that all tenants who 'can pay should pay' part or all of their respective rent, service charge and insurance due dependent on their individual financial position.

## Options

8. The RASC Committee on 10 December 2020 considered a range of options including, rent free, rent deferral, extension of payment plans, turnover rents, use of rent deposits and taking no further action. Full details of these options and the recommendations which were approved can be found in the RASC report attached as Appendix 2.

9. Of the above options, the following are being recommended:

- a. **Rent Deferral** – an 'automatic' (subject only to prior acceptance by the relevant tenant) deferral of monthly or full quarter's rent payments due in December for DCCS tenants until 24 March 2021, payable thereafter in 24 equal monthly payments or as separately agreed on a case by case basis. This option is recommended.
- b. **Extension of payment plans arising from previous March, June and or September deferrals** – extension of terms of previously approved repayment plans (or where tenants have not yet accepted the offer) scheduled to commence in September and/or December on application. This option is recommended.

10. We do not currently recommend turnover rents for the HRA portfolio for the following reasons: -

- i. tenants within the portfolio, including a number of sole traders, may struggle (or may be unable/unwilling as experienced in the case by case analysis for the September rent) to provide regular and accurate financial information that would be required in a timely manner
- ii. the officer administration costs would be considerable (and complex given current governance)
- iii. there is not currently the resource and/or expertise to introduce and administer turnover rents within the Chamberlain's department.
- iv. uncertainty in income from turnover would impact the HRA's budget and future planned works significantly
- v. promotion of a turnover scheme where tenants rent is linked to a reduced turnover could reduce income payable to the City when it appears some HRA tenants are able to bear the full cost of the existing rent

Note whilst at present turnover rents are not currently recommended for the HRA portfolio, the position will be reviewed again in March 2021.

## **Risks**

11. There remains significant uncertainty as to whether tenants granted deferrals of either the March, June or September's quarter's rents will meet the terms of existing repayment plans. In addition, the Government's forfeiture moratorium for non-payment of rent has been extended (originally due to expire on 30 September 2020) until at least 31 December 2020.
12. The impact on current or future budgets (combined local and central risk envelope) of any future assistance remains of concern. No adjustment to services' budgets has yet been made to support rent deferrals that may not be recovered if tenants subsequently default. There is, therefore, potentially a risk of leaving budget shortfalls for 2020/21.
13. Tenants who have already received assistance, but with leases that expire during the proposed potential repayment period (s) continue to be carefully managed to ensure that not only is effective assistance offered, but any rent deferral offered is also capable of being repaid during the course of the lease period due to the uncertainty around tenant renewals.
14. Notwithstanding all the above, the risk of tenant failure within repayment periods and/or requests for additional rental support including rent free and possible service charge assistance is considered very high unless/until trading conditions revert to pre pandemic levels. If tenants fail or do not seek to renew leases expiring in the next 12-18 months, the City will be faced with voids, time and costs to seek new tenants. Supporting tenants will have the further benefit of helping to protect the square mile.

## **Next steps**

15. Subject to above and the approval of recommendations in this report, officers will send out correspondence to all DCCS commercial tenants confirming the support available to them.
16. Further consideration of assistance to tenants, including repayment plans, will be reviewed in March 2021.

## **Corporate & Strategic Implications**

17. The level of debt on the operational property portfolio is likely to have a significant impact on the City's overall finances. However, the objective remains to ensure, wherever possible, a fully tenanted portfolio to support the revenue within the Corporation and in turn the wider Corporate Plan objectives of a thriving economy, outstanding environment and a flourishing society. Whilst the City has immediate commercial and financial considerations, there are wider reputational matters to consider during this pandemic and how the City will be viewed once the pandemic has been resolved.

## Department of Community and Children's Services (DCCS) Business Plan

18. The proposals contained in this report meet the objectives of the DCCS Business Plan in the following ways:

- Health and Wellbeing – people of all ages enjoy good mental and physical health and wellbeing.
- Community – people of all ages feel part of, engaged with and, able to shape their community.
- Potential – people of all ages are prepared to flourish in a rapidly changing world.
- Independence, Involvement and Choice – people of all ages can live independently, play a role in their communities and exercise choice over their services.

### Financial Implications- Chamberlain's comments

19. The support measures outlined in this paper i.e. rent deferrals and 'deferrals of deferrals' will only have a cash flow impact, subject to future rent and service charge payments being honoured. The further deferral and the extension of the deferral repayment period is intended to help maximise overall recovery of rents in the long term

20. The maximum initial cost of the deferral would be £407,529 (£368,504 HRA and £39,023 City Fund)

### Legal Implications

21. The City holds its operational properties (and implications for management) as follows:

- a. **City Fund (including ring fenced HRA):** These properties are held under local authority statutory powers and in managing them regard must be had to the statutory purposes for which they are held and to the City's fiduciary duties to its rate payers and Council tax payers.

### Conclusion

22. This report provides additional rental assistance to the operational portfolio through the recommendation of a deferral of the December quarter rent to all DCCS tenants who request further support, together with a further deferral of existing repayment plans until at least March 2021. Subject to the improvement of trading conditions following recent announcements on the availability of a vaccine and improved test and tracing, existing repayment terms for deferred rents will be reviewed again in March 2021.

## **Appendices (Non-Public)**

The Appendices of this report are Non-Public by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972. They contain sensitive information to the financial or business affairs of a particular person or body (including the authority holding that information) which is exempted under the Act.

- Appendix 1 (Non-Public) – Summary of assistance approved by DCCS to tenants to date in March, June and September quarter
- Appendix 2 (Non-Public) – RASC Report - Proposal to assist City of London Operational Tenants for the December Quarter - Resource Allocation Sub-Committee - 10 December 2020

### **Paul Murtagh**

Community & Children's Services

T: 020 7332 3015

E: Paul.Murtagh@cityoflondon.gov.uk

### **Nicholas Welland**

City Surveyor's Department

T: 020 7332 1661 E: Nicholas.Welland@cityoflondon.gov.uk