

Committee:	Dated:
Community and Children's Services	05 March 2021
Subject: HRA Commercial Tenants and COVID-19 – Rental Support (March Quarter 2021)	Public
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?	HRA
Has this Funding Source been agreed with the Chamberlain's Department?	N
Report of: Andrew Carter, Director of Community and Children's Services	For Decision
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Summary

This Committee has previously approved assistance packages to support its HRA commercial tenants (tenants) during the COVID -19 pandemic for the March, June, September and December 2020 quarters. A summary of the assistance provided to tenants of the operational estate to date is outlined in Appendix 1 (non-public) to this report.

This report supports offering further assistance to tenants for the March quarter 2021, due to the continuing restrictions on business activities caused by COVID- 19. It recommends offering those tenants with sufficient time remaining on their leases, the option to defer the March 2021 quarter rent, along with all previously deferred sums, to 23 June 2021 with a view to agreeing either, 24-month or, case specific monthly repayment plans commencing in June 2021. The maximum amount of the March 2021 deferred income for the HRA and DCCS plus, details of previous sums deferred, are outlined in Appendix 2 in the non- public part of the Agenda.

The concept of offering temporary turnover rents to eligible tenants has been considered but, at this stage does not seem beneficial to any of the parties. The cost projections for the implementation of turnover rents for the City Corporation are estimated at up to £260,000, based on 65 tenancies at £4,000 per lease. The modelling of the extent of the rent that could be foregone with the introduction of

turnover rents makes this option prohibitive for the HRA. Moreover, the evidence of a lack of take up of turnover rents from other City Corporation portfolios suggests it is not an attractive proposition for the tenants themselves.

Worst case scenario modelling, which assumes that tenants fail to produce any significant turnover going forward, is set out in Appendix 2 (non-public) and, illustrates the maximum rental income that the HRA stands to lose in the 2021/22 financial year. The model indicates that, with the inclusion of the cost of implementing turnover rents, HRA income could be reduced by 73% (refer to Appendix 2 non-public) for the year ahead, which is not sustainable.

Recommendations

The Committee is asked to approve the following recommendations:

1. Deferment of the full quarter's rent due from 24 March 2021 to 23 June 2021, for all 'at risk' tenants requesting further support. This will delay the estimated income outlined in Appendix 2 (non-public) until 24 June 2021, payable thereafter by equal monthly payments over 24 months or, for shorter leases, on terms to be delegated to the Director of Community and Children's Services (DCCS), in consultation with the City Surveyor and Chamberlain, excepting only, those tenants that have already paid or wish to pay the March 2021 quarter's rent.
2. Deferment of previously agreed, 24-month, or tailored repayment plans due to commence in March 2021, at a combined value noted in Appendix 2, to now include the full rent deferral from 24 March 2021 to 23 June 2021 and, be repayable from June 2021 on terms to be delegated to the DCCS, in consultation with the City Surveyor and Chamberlain, excepting only those tenants that have already paid or wish to continue to pay their rent.
3. The use of rental deposits, where applicable, as part of the repayment plan to support tenants, the terms of such use, being delegated to the DCCS in consultation with the City Surveyor and Chamberlain.
4. To note the potential budget implications of the recommendations above, as set out in Appendix 2 (non-public).
5. To note that, where leases are close to expiry, it will be possible to offer terms for new leases which, will include provision for the repayment of deferred rents, subject to assessment of a reasonable prospect of the tenant's ability to repay.
6. To note that all tenants will be invoiced for the March 2021 quarter rental payments consistent with previous quarters.
7. To note that, in the absence of agreed payment plans (either if a tenant refuses to engage on a case by case basis or, if terms cannot be agreed) it is expected that the Chamberlain's Department, in consultation with the Comptroller and City Solicitor, will continue to pursue all operational tenants for debt using such remedies that are currently available and further means, subject to Government

lifting the restrictions on pursuing forfeiture that are currently in place until 31 March 2021.

8. To note that the 'case by case analysis' of tenant's financial status and trading position will now be suspended until June 2021. At this point, recommendations on non- standard, tenant specific repayment plans for payment of the rent due for the full year period from 25 March 2020 to 24 March 2021, will be developed and submitted jointly by the City Surveyor and the Chamberlain to the DCCS and this Committee for approval.
9. To note that following evidence provided in the case-by case analysis, this Committee may decide to provide additional support to that outlined above or support to tenants not within the originally classified 'at risk' category.

Main Report

Background

1. For each quarter of the COVID 19 pandemic, from March 2020 onwards, the Resource Allocation Sub Committee (RASC) and subsequently, individual Service Committees, have considered options and agreed support measures for their respective commercial portfolios. The Community and Children's Services Committee (C&CS) has previously approved various assistance packages to support its operational portfolio tenants ranging from monthly payments for all tenants, through to rent deferrals and 3-month rent free periods for micro businesses (businesses with 10 or fewer employees). The support measures agreed for the four quarters to date are summarised in Appendix 1 (non-public).
2. Tenant responses to the offers made have reduced with each passing quarter and payment of rent and other charges has been low. The increasing arrears debt is of concern to the City Corporation and tenants alike. A summary of the numbers of tenants accepting offers and, the arrears levels for the DCCS and HRA commercial property portfolios is given in Appendix 2 (non- public).
3. The Government COVID-19 response for Spring 2021 states that the earliest date that the fourth lockdown for London will be eased to allow all retail, outdoor hospitality and personal care premises to re-open will be 12 April 2021. As such, despite the rapid and successful roll out of the vaccination programme, the whole of the December quarter, along with at least some of the March quarter, will have been adversely impacted. It is therefore necessary to consider further measures of rent support for our tenants for the quarter March 2021 to June 2021. The advice from Government from 4 January 2021 that City office workers should continue to work from home remains unchanged.
4. By 31 March 2021, it will be possible for tenants, and the City Corporation, to gauge the full year financial effect of COVID-19. Tenants have been affected to varying degrees and, some have not engaged with support offers at all during this time. There is clearly a risk that not all arrears will be recovered. The current arrears position is shown in Appendix 2 (non- public).

5. In the early stages of the pandemic, it was agreed that the standard recovery notices and all recovery action would be paused. This decision was reviewed in November 2020 by the Chair of the Policy and Resources Committee and the Chair of the Finance Committee and, it was agreed that the recovery processes would be re-started.
6. Due to the closure of the Guildhall print room, it has not yet been possible to issue any reminder notices. Development of an external solution to this issue is being tested and, it is hoped that all notices will be issued in March.
7. There are also continued restrictions in place under the Taking Control of Goods (Amendment) (Coronavirus) Regulations 2020 (SI 2020/1002), which relate to commercial rent arrears recovery (CRAR) and, which protect tenants of commercial leases with arrears accumulated during the COVID-19 pandemic from forfeiture.
8. Despite the limitations on recovery notices and the enforcement options, efforts are still ongoing with City Corporation staff seeking engagement with tenants to encourage payment and to agree payment arrangements.
9. Consistent with the advice previously provided to tenants, it is recommended that all tenants are billed for the March 2021 quarter rental payments, confirming the position that all tenants who 'can pay should pay' part, or all of their respective due rent, service charge and insurance, dependent on their individual financial position.
10. Further consideration of assistance to tenants, including reviewing repayment plans will take place in June 2021.

Proposals

11. Except for temporary turnover rents and the deferment of the use of case-by-case financial analysis until June 2021, it is proposed for the March 2021 quarter to follow the recommended options agreed by RASC at its meeting on 2 March 2021 as set out below:

Deferral of Rent

12. Deferment of the March 2021 quarter rent until 24 June 2021 where tenants request this support, excepting those tenants who are willing and able to pay the rent. For DCCS and HRA tenants, as agreed in December 2020, deferred rents will be payable thereafter by equal monthly payments over 24 months or, for shorter leases, on terms to be delegated to the Director of Community and Children's Services (DCCS) in consultation with the City Surveyor and Chamberlain, excepting only those tenants that have already paid or wish to pay the March 2021 quarter rent.

Deferral of previously approved repayment

13. To further defer payment plans, including the March quarter rent (last deferred from September 2020 and December 2020 and due in March 2021) until June 2021, unless tenants wish to repay. To grant delegated authority to the DCCS, in consultation with the City Surveyor and Chamberlain, to agree repayment by 24 equal monthly payments or, by bespoke case specific repayment plans where leases have shorter periods remaining, from June 2021.
14. Where leases are close to expiry, it will be possible to offer terms for new leases which, will include provision for the repayment of deferred rents, subject to assessment of a reasonable prospect of the tenant's ability to repay.

Turnover Rents

15. Initial assessments suggest that the use of turnover rents going forward cannot be supported within the HRA. The cost of implementing turnover rents, estimated at up to £260,000 (based on 65 tenancies at £4,000 per lease) are likely to be uneconomical and prohibitive and, will likely result in significant losses to HRA rental income stream.
16. The scheme considered was that qualifying tenants could, going forward, apply to be migrated to temporary turnover rents, subject to agreeing to defined conditions including:
 - (a) a prior repayment plan of arrears to date including deferrals;
 - (b) completing any legal documents required to evidence the temporary arrangement;
 - (c) providing accurate and timely data to enable the calculation of the basis of the turnover rent and thereafter, the actual turnover rent top up.
17. Base rents modelled broadly followed that agreed by the Property Investment Board in November 2020 with consideration of between 25% and 50% of current rental value for specified sectors plus a percentage of turnover top up. The precise terms of such turnover rent to be delegated to the DCCS in consultation with the City Surveyor and Chamberlain. The modelling demonstrated the maximum impact on the HRA income stream of agreeing turnover rents and is shown in Appendix 2 (model assumes no turnover top up). For an example of a typical turnover rent calculation refer to Appendix 3 (public).
18. The offer of temporary turnover rents within the City Corporation's Investment Portfolio has been met with a mixed response to date, with an estimated take up of 20% and, a noticeable and significant reluctance of tenants to share their trading figures.
19. The cost implications of setting up and implementing turnover rents, along with the potential income that may be foregone, as illustrated in Appendix 2, makes it prohibitive for the DCCS/HRA budgets. There could be up to 65 tenants who qualify for and take up the option for turnover rents from this portfolio (49 in retail and, 16

in food and beverage). In addition, the DCCS office tenant, who is linked to hospitality recruitment, may also seek this support.

Use of Rent Deposits

20. In some cases, the consideration of the use of rent deposits as part of the overall repayment plan to support tenants is advocated. Some tenants have previously requested this as part of the repayment of their arrears. This has not previously been recommended by officers as, this is likely to be 'once and for all' assistance. Deposit levels, normally held for the duration of the lease, are unlikely to be refunded by the tenant once utilised. However, to further assist tenants, use of rental deposits (where applicable), as part of the repayment plan, is now proposed upon request, the terms of such use being delegated to DCCS in conjunction with the City Surveyor and Chamberlain. These terms will include the requirement for tenants to repay the rent deposit, in full, before lease expiry and, as part of a prior agreed repayment plan.
21. Members are asked to note that whilst the City Corporation's engagement with tenants to discuss rental support and associated payment plans is ongoing, the Chamberlain's department will continue to pursue debt by all means currently available and, in due course, subject to Government lifting the current restrictions, currently in place until 31 March 2021, such action may include the pursuit of forfeiture of lease if necessary.

Key Data

22. Refer to Appendix 2 (Non-Public)

Middlesex Street Working Development Group

23. At the last meeting of the Middlesex Street Estate Working Development Group on 8 February 2021 when, further rental support for the City Corporation's HRA commercial tenants was discussed, Members asked about the impact of such further rental support on HRA residential tenants and leaseholders. A series of questions was subsequently submitted to Officers and, the responses to these questions are set out in Appendix 2 (non-public).

Corporate and Strategic Implications

24. The level of debt on the operational property portfolio is likely to have a significant impact on the City Corporation's overall finances if not fully repaid. However, the objective remains to ensure, wherever possible, that we have a fully tenanted operational portfolio to support the revenue stream of the City Corporation and, in turn, the wider Corporate Plan objectives of a thriving economy, outstanding environment and a flourishing society.
25. Whilst the City Corporation has immediate commercial and financial considerations, there are wider reputational matters to consider during this pandemic including, how the City Corporation will be regarded once the pandemic has been addressed.

DCCS Business Plan

26. 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

27. The cost of implementing turnover rents going forward is estimated at around £260,000 (based on 65 tenants at £4,000 per lease) will need to be funded from the HRA/DCCS budgets, or centrally by way of a bid for funding to RASC. Although not recommended by Officers at this stage, the option of turnover rents may be subject to further consideration by this Committee as part of the approach to the June 2021 rent quarter. Any subsequent shortfall in rental income arising from the implementation of turnover rents will need to be met by the HRA.

28. Other than any agreement for turnover rents, the support measures outlined in this report (rent deferrals, 'deferral of deferrals' and use of deposits) will only have a cash flow impact provided, that future rent and service charge payments are honoured and repaid in full and, utilised rental deposits are replenished.

29. It is possible that the future introduction of turnover rents may result in a permanent loss of income for 2021/22 but, at this stage, it is only possible to quantify the worst-case scenario as set out in Appendix 2 (non-public).

30. An assessment of the impact of commercial rent loss to the HRA and, the subsequent impact on the delivery of services to residential tenants and leaseholders will need to be carried out by the DCCS and Chamberlain following the closure of accounts for the financial year 1 April 2020 to 31 March 2021. This will also, to a large extent, depend on the view of the long term recoverability of the deferred rental income.

Legal Implications

31. The DCCS commercial properties (HRA and City Fund) are held under local authority statutory powers and, in managing them, due regard must be given to the statutory purposes for which they are held and, the City Corporation's fiduciary duties to its rate payers and Council Tax payers.

Risk Implications

32. There remains significant uncertainty as to whether tenants granted deferrals of either the March, June, September and December's quarters rents will meet the terms of existing repayment plans. In addition, the Government's forfeiture moratorium for non-payment of rent has been extended again until at least 31 March 2021.
33. The impact on current or future budgets (combined local and central risk envelope) of any future assistance remains of concern. Departments have confirmed that they wish to continue to support their commercial tenants, but no specific adjustments to services have yet been made to support rent deferrals that may not be recovered if tenants subsequently default. This means that there is a potential risk of budget shortfalls for 2020/21 and 2021/22.
34. Notwithstanding the support outlined above and, improving trading conditions, 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.

Conclusion

35. This report seeks approval for additional rental assistance to the operational portfolio tenants through the recommendation of a deferral of the March 2021 quarter rent to all 'at risk' tenants who request further support, together with a further deferral of existing repayment plans until at least June 2021. Subject to an improvement in trading conditions, repayment terms for deferred rents will be over 24 months, where sufficient lease term remains, or, for shorter leases, tailored to fit the circumstances of the individual lease and leaseholder as agreed by the DCCS in consultation with the City Surveyor and Chamberlain. The report also proposes considering the use of rent deposits to further assist tenants. The possible future use of temporary turnover rents may be reviewed in the approach to the June quarter.

Appendices

- Appendix 1: Rental support measures agreed by the Community and Children's Services Committee for HRA and C&CS commercial tenants for the March to December 2020 Quarters.

This Appendix is Non-Public by virtue of paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972. It contains 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 2: Financial data for the commercial portfolio including rent deferrals, rent free period, income loss, arrears position and deposits held.

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Appendix 3: Worked example of turnover rent calculation with base rent of 50% of the assumed current rental figure.

Background Papers

Proposal to assist City of London Operational Tenants for the March 2021 Quarter.
RASC Committee 02/03/21 (Non- Public).

Department of Community and Children's Services Commercial Tenants and COVID-19 – Support in the December Quarter.
Community and Children's Services 11/12/20 (Public).

City Fund, City's Estate and Bridge House Estates – Turnover Rent Proposal to Assist City of London Investment Tenants.
Property Investment Board 11/11/20 (Non-Public).

Department of Community and Children's Services Commercial Tenants and COVID-19 - Proposal for revision to Additional Support in the September Quarter.
Community and Children's Services 06/11/2020 (Public).

Department of Community and Children's Services, Commercial Tenants and COVID-19- Proposal for Additional Support in the September Quarter.
Community and Children's Services 28/09/2020 (Non-Public).

Commercial Tenants and COVID -19
Community and Children's Services 24/07/2020 (Non-Public).

HRA Commercial Tenants and COVID- 19 – Proposal for additional support.
Community and Children's Services 22/05/2020 (Non-Public).

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