

Committee:	Dated:
Community and Children's Services Committee	9 July 2021
Subject: HRA Commercial Tenants: Current tenant arrears and terms of repayment plans relating to COVID-19 – rental support.	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 five quarters (March 2020 to March 2021). A summary of the assistance provided to tenants to date is outlined in Appendix 1 (non-public). The overall objective remains to ensure, wherever possible, a fully tenanted portfolio to support the Housing Revenue Account (HRA).

Trading conditions are improving following the May easing of restrictions and rollout of successful vaccines. Since the date of the last report the City's new Covid Recovery fund has also been launched to support SMEs in the square mile and this will benefit some tenants. Further proposals to assist the City's operational tenants should therefore consider all previous and existing support to date. A Government press statement on 16/6/21 extended the moratorium on forfeiture for non- payment of rent until March 2022 and announced a further government proposal to ring fence property debt related to COVID 19 enforced business closures. This has the potential to have a significant impact on the City's ability to agree repayment plans with tenants, on anything other than a voluntary basis, and precludes legal action before the end of this financial year if any plans agreed are not complied with.

This report follows the precedent set at Resource Allocation Sub Committee (RASC) on 29th June 2021 that further support such as deferrals of rent or services charges, or rent free, is no longer considered appropriate as the recovery continues, despite the recent delay of full societal opening up from 21st June 2021 to 19th July 2021. However, portfolio arrears levels are a concern and some tenants, in particular food and beverage tenants, may claim further assistance is essential for their survival. Any requests will continue to be considered on a case by case basis but may not become apparent before tenants actively engage with the City which, as mentioned above, will be hampered by the extension to the moratorium on forfeiture until at least March 2022. HRA commercial portfolio arrears stood at £1,218,433 as of 30th April 2021 (as reported to RASC). Of this figure £1,131,474 are estimated to be recoverable through repayment plans, £63,032 relate to previous tenants or non-retail tenants and will be pursued appropriately. Around £62,000 of debt is owed by tenants viewed at risk of business administration or bankruptcy (summarised in Appendix 2).

This report seeks approval to the principles for the voluntary agreement of repayment plans, aligned with those approved by RASC, for all sums owed, including sums now likely to be in the government ring fenced category deferred by way of COVID- 19 support, with a maximum available repayment period of 60 months. Based on current estimates, if all tenants agree to voluntary repayment plans sums repaid over the current and next 5 financial years are as shown in Appendix 2. Where tenants do not engage with the repayment process, arrears will be pursued by all available means post March 2022.

It remains the position that the budget implications arising from support to tenants, including the impact of lengthy repayment plans, will need to be met from existing department budgets. However, the opportunity for budget holding departments to submit a business case to RASC for additional resources is proposed to continue in the RA sub report.

Recommendations

The Committee is asked to:

- Delegate authority to the City Surveyor to agree best fit (shortest practical to achieve repayment) voluntary repayment plans from the options outlined in paragraph 6 of the 29th June 2021 Report to RASC and paragraph 5. below.
- Note that where tenants fail to engage, or agree voluntary repayment plans, this will lead to the City reconsidering the position post March 2022.
- Note that no further rent or service charge concessions (rent frees or deferrals) are recommended for this quarter.

- Note that any costs of repayment plans, including legal fees and any budget impact from repayment plans will need to be met from existing department budgets. However, the opportunity for budget holding departments to submit a business case to RASC for additional resources is proposed to continue to be available until at least September 2021.

Main Report

Background

1. For each quarter of the COVID 19 pandemic, from March 2020 onwards, the Resource Allocation Sub Committee (RASC) and subsequently, Community and Children's Services Committees (C&CS), have considered options and agreed support measures for their respective commercial portfolios. Support has included monthly payments for all tenants, through to rent deferrals and, for June quarter 2020, a 3-month rent free period for micro businesses (businesses with 10 or fewer employees). The support measures agreed for the five quarters to date are summarised in Appendix 1 (non-public).
2. In March 2021, RASC approved further deferral of the March quarter rent and 'deferrals of deferrals'; together with the potential use of temporary Turnover Rents and Rent Deposits to assist tenants with arrears. On 5th March 2021, your committee ratified this decision with the exception of a general Turnover Rent offer, which was viewed to be detrimental to HRA budgeted income. In addition, recognition was given that tenants should have the opportunity to apply for the City's COVID Recovery Grant before agreeing repayment plans.

Current Position

3. The arrears levels for the HRA commercial property portfolio stood at £1,218,433 as at the end of April 2021 (as reported to RASC in June 2021).
4. A Government press statement (see Appendix 3) on 16/6/21 extended the moratorium on forfeiture for non- payment of rent, originally due to expire on 30th June 2021, until March 2022 and announced a further government proposal to ring fence property debt related to COVID 19 enforced business closures. Full details of this proposal have not yet been outlined or embodied in law. The principle that those tenants who could pay their rent should do so was reinforced but the ring fencing announcement has the potential to have a significant impact on the City's ability to agree repayment plans with tenants, on anything other than a voluntary basis, and precludes legal action before the end of this financial year if any plans agreed are not complied with.
5. It is now recommended that all arrears originating pre and since March 2020 be incorporated into individual voluntary repayment plans, to be agreed with those tenants wishing to address their deferred arrears.

6. Tenants ready to engage with the City are expected to be offered suitable choices of repayment options from the range given below.
7. This Committee is asked to agree that the broad categories of repayment plans, to be offered to tenants by the City Surveyor are as follows:-
 - i. No repayment plan – tenant not in arrears or tenant willing to meet payment all arrears before 24th September 2021.
 - ii. Existing repayment plan – tenant continues to meet terms of previously agreed repayment plan
 - iii. Revised repayment plan (not using deposit) – tenant to meet terms of revised repayment plan, without using deposit within 24-60 months of commencement of repayment plan
 - iv. Revised repayment plan (using deposit) – tenant to meet terms of repayment plan, using deposit within 24-60 months of commencement of repayment plan but reinstating deposit at the end of 24-60 months.
 - v. Revised repayment plan (with turnover rent) – tenant to meet terms of repayment plan within 24-60 months of commencement of repayment plan but converting to a turnover rent as soon as practical.
 - vi. Repayment plan incorporated into reversionary lease - tenant to meet terms of repayment plan including as part of a reversionary lease where existing lease expires within 24-60 months of 24th September 2021.
8. DCCS officers supported by the Chamberlain and City Surveyor will agree the best option considering the facts of each case (arrears level, lease length, expiry date, ability to pay), up to a maximum repayment period of 60 months (5 years). Commencement dates up to 29/9/21 to be agreed, also depending on the circumstances of each case.
9. A summary of the breakdown of the April 2021 arrears figures into sums in proposed repayment plans and sums at risk of business administration/ tenant bankruptcy is given in Appendix 2 (non- public) along with an estimate of the five year arrears repayment profile for the portfolio. As mentioned above this repayment profile may be significantly impacted by the recent Government announcement on ringfencing COVID 19 debt and extending the moratorium on forfeiture until March 2022. Significantly tenants may fail to engage unless/until the remedy of forfeiture is available to landlords.
10. A further report will be considered in the Autumn, following tenant consultation, to confirm the progress of rollout of voluntary repayment plans and the emerging detail of government measures.

Corporate and Strategic Implications

11. The level of debt on the HRA is likely to have a significant impact on that budget if not fully repaid. However, the objective remains to ensure, wherever possible, to have a fully tenanted operational portfolio to support revised expenditure plans and, in turn, the wider Corporate Plan objectives of a thriving economy, outstanding environment and a flourishing society.
12. Repayment plans will be recommended to DCCS officers with the support of City Surveyor and Chamberlain based on ensuring wherever possible the viability of existing tenants. However, in addition to immediate commercial and financial considerations, this committee may wish to consider wider reputational matters related to actions during this pandemic.

DCCS Business Plan

13. The proposals contained in this report meet the objectives of the DCCS Business Plan in the following ways:
14. Health and Wellbeing – people of all ages enjoy good mental and physical health and wellbeing.
15. Community – people of all ages feel part of, engaged with and, able to shape their community.
16. Potential – people of all ages are prepared to flourish in a rapidly changing world.
17. 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

18. The repayment plan parameters 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.
19. 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 has been carried out by the DCCS and Chamberlain following the closure of accounts for the financial year 1 April 2020 to 31 March 2021 and was reflected in the provision for bad debt charge in the end of year accounts.

Legal Implications

20. 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

21. There remains significant uncertainty as to whether tenants granted deferrals of rent will meet the terms of repayment plans.
22. The impact on current or future budgets (combined local and central risk envelope) of any future assistance remains of concern. This Committee has confirmed the 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 2021/22.
23. 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

24. This report provides an update on current HRA tenant debt and outlines the proposed move of focus from tenant assistance to debt recovery. The parameters of voluntary tenant repayment plans are outlined. They will be negotiated by the City Surveyor on a case by case basis, noting that the Government is seeking to ring fence COVID 19 debt and that forfeiture for non-payment of rent is prohibited until March 2022.

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.

Appendix 2: Arrears value in repayment plans and at risk HRA commercial portfolio.
Estimated 5 year arrears repayment profile

These appendices 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 3: Government Press Statement 16/6/21

Background Papers

City of London Operational Tenants – Rental support repayment plans from June 2021
RASC Committee 29/06/21 (Non- Public).

HRA Commercial Tenants and Covid-19 - Rental Support (March Quarter 2021)
Community and Children's Services 5/03/21 (Public with non- public appendices).

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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