

Report to: Executive Board – Monday 7th November 2005

COMMERCIAL RENTS

Report of: Business Manager - Financial and Asset Management	WARDS AFFECTED All
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Lead Member Responsible: Councillor Alex Hollingsworth	
Overview and Scrutiny Committee Responsibility: Finance	
Key Decision: Yes	

RECOMMENDATIONS

The Executive Board is **RECOMMENDED** to:

1. Note the Comments of the S151 officer in paragraphs 7.1 to 7.4.
2. Instruct the Business Manager (Financial and Asset Management) to quickly complete the remaining rent reviews, and to collect the resulting rent.
3. Ask the Business Manager to ensure that all future rent reviews are initiated in good time, and only in exceptional circumstances later than 6 months after the review date.

1. Background

1.1 This report is a result of the Motion approved by Full Council on the 3rd October 2005 which stated that "In Support of Economic Diversity"

"Council notes that in the previous round of rent reviews some were conducted very late. Council notes that the businesses concerned are being asked to pay

backdated rent to the date at which the original review was due.

Council notes with dismay that this may have a negative impact on the ability of some independent traders to continue in our City.

Council notes that because of the concurrent road works and other local factors, independent traders on the Cowley Road are particularly affected by the current round of both private and public rent reviews (six properties are Council-owned). As a consequence, Cowley Road traders have organized a march to the Town Hall in protest. Council again endorses the view that Oxford should have a "diverse and vibrant" economy.

In the interests of this statement, and to prevent this situation from re-occurring Council resolves to invite the Executive Board:-

- (1) To hold all rent reviews within 6 months of the due date.*
- (2) That if this target is missed the rent due will be backdated no more than 6 months from the date the rent review is initiated.*
- (3) To include the last round of rent reviews in this policy.*
- (4) In the light of the report requested and received by the East Area Parliament (21st Sept 'Business Rents in the Cowley Road', Item 13), to consider what might be done to utilize the power of economic well-being (Local Government Act 2000) to phase in any agreed rent increases or otherwise reduce the impact on independent traders Citywide whilst still satisfying the District Auditor."*

2. Our property portfolio

- 2.1 The City Council holds £78 million in investment properties, which generates over £5 million a year in rents. This income is crucial in balancing the Council's budget.
- 2.2 We manage our property portfolio as commercial landlord. If we did not do this we would be open to accusations that we were not acting as a proper steward of those assets that we hold on behalf of the whole community. The Director of Finance and Corporate Services has a duty to ensure the Council acts properly in this area, and the District Auditor also reviews this area.

3. Rent reviews

- 3.1 Each commercial tenant has a lease agreement which both they and the Council sign. These agreements set out our joint responsibilities. The agreements set out when we will jointly review tenants' rent payments.
- 3.2 Our properties are managed by the Asset Management Team - which now forms part of the Finance Business Unit. Over the last eighteen months that team has steadily reduced a backlog in processing rent reviews, with over 80% (by value) of outstanding reviews now cleared.

3.3 Appendix A lists the agreed and outstanding rent reviews.

4. How we manage the rent review process

4.1 The Royal Institute of Chartered Surveyors (RICS) issues guidelines on how to manage rent reviews. These make up the property industry standard for this area. That industry standard is to charge for rent arrears once the rent review is settled.

4.2 Apart from the overall level of refund involved, the Board should note that prudent tenants should have set aside monies to meet their back rent once the review is settled, and thus refunds are considered inappropriate in these circumstances.

5.1 Most tenants have paid their outstanding rent immediately. However where there has been hardship we have agreed phased rent repayments (sometimes over years) to help tenants pay off arrears.

5. Refunding rent review income

5.1 We have a fiduciary duty for funds at our disposal. Even if a rent review is initiated 'late' the monies are still properly owed to ourselves. In exercising any discretion to refund all or some of those monies we must only have regard to relevant considerations. Personal hardship *may* constitute a relevant consideration but that must be balanced against the wider public interest and duty that the Council owes to all its citizens.

5.2 It is difficult to conceive of any basis upon which a blanket policy of the type that the motion proposes could ever distinguish between cases in which personal hardship may be a relevant consideration.

6. How the proposal would affect the Council's finances

6.1 The Council motion proposes a policy that would have a significant adverse effect on the Council's finances. Asset Management staff have estimated that we would need to give one-off refunds in excess of £223,000. This would be the equivalent of more than a 2% rise in our council tax.

6.2 The beneficiaries would include a variety of local, regional, and national multiple organizations. The multiple organisations include: Vodafone, Southern Electricity, T-Mobile, Greene King, British Gas, Cheltenham and Gloucester Building Society, and a number of Oxford Colleges.

6.3 This refund would be paid from the Council's General fund, and would have to be met by a supplementary estimate. Given its material effect on our budget it would also need to be approved by full Council.

7. Comments of S151 Officer

7.1 The proposed Council motion would cost in the region of £220,000. Based on the information from and advice of Asset Management staff, the approach would not be in line with normal commercial practice.

- 7.2 Bearing this in mind, together with the likely beneficiaries of the rent refunds, it is hard to see how spending this sum could be seen as representing value for money. There is a good chance we would not be able to convince the ODPM on this issue.
- 7.3 The District Auditor may also take an interest in this area, not least if he were to receive an objection to our accounts as a result of this spending.
- 7.4 If Members wish to pursue this option I would need to review the detail of the proposal very carefully and report back. I have not been able to do this in time for this report deadlines - as I would need to involve the Monitoring Officer, ODPM and the District Auditor

8. Future management of rent reviews

- 8.1 It should be possible to meet the approved Council Motion paragraph 1 to initiate all reviews within 6 months of the review date except in the exceptional circumstances.

9. The Cowley Road

- 9.1 The Board should also note that the Cowley Road traders recently delivered a petition to the Council regarding both increases in rents and disruption of the road works having severely curtailed trade.
- 9.2 The Council owns only six commercially rented properties on Cowley Road of which only two are involved in the suggested refund process, so there is little direct action the Board could take to assist these traders through rent reviews.
- 9.3 This Board should be aware that a copy of this Executive Board report together with the petition is to be discussed at the next East Area Parliament meeting on the 16th November 2005.

Appendix A - Potential refund schedules

THIS REPORT HAS BEEN SEEN AND APPROVED BY:

Councillor Alex Hollingsworth - Leader of the Council
Mark Luntley - Director of Finance and Corporate Services
Penny Gardner - Business Manager financial & asset management
Jeremy Thomas - Business Manager Legal & Democratic services
Andy Collett, - Service Accountant

There are no background papers