

To: City Executive Board

Date: 18th February 2009

Item No:

Report of: Head of Community Housing & Community Development

Title of Report: Rent Setting for properties used as supported housing.

Summary and Recommendations

Purpose of report: To outline the current situation regarding 5 properties used as supported housing, and recommend a basis on which rents may be set.

Key decision? Yes

Executive lead member: Councillor Turner

Report Approved by:

Finance: Dave Higgins

Legal: Jeremy King and Lindsay Cane

Policy Framework: Budget framework, Housing Strategy, Homelessness Strategy

Recommendation: That the City Executive Board approves the setting of “formula rents” for these properties.

Background

1. A number of Council owned properties are currently leased to social housing providers to use as supported housing of various types, in various locations across the city. This report concerns five such properties: two used as Domestic Violence refuges, two which provide support for persons suffering with mental health problems, and one which is a direct access hostel for young homeless people. The services provided are a valuable contribution to the well being of some of the most vulnerable residents of Oxford, and contribute to the homelessness prevention agenda. A breakdown of the properties

concerned, and the services provided therein is attached at Appendix 1(confidential).

2. These properties have traditionally been referred to as Housing Revenue Account (HRA) or Housing properties, although technically the HRA cannot own properties in its own right. What the HRA designation amounts to is a commitment that the revenue generated by the buildings (i.e., the rent charged) and any capital receipt from building disposals goes into the HRA, and places a repair commitment on the HRA (subject to any repair conditions imposed on the tenants under the terms of their lease).
3. In the past, these properties have been let at very low rents. The question has arisen as to the legality of the HRA subsidising activities that are General Fund in nature (that is, not applying solely to Council tenants and leaseholders). Currently, interim rental agreements have been issued to the new provider of Domestic Violence Refuge Services and the new provider at the young persons hostel at 45% of market rent. The two established mental health service providers have no current leases, but are considered "tenants at will", and continue to pay rent at the level specified in their expired lease arrangements.
4. Residents of these properties pay rent to the service provider, often funded by Housing Benefit. This applies to all residents, including those who may have originated elsewhere in the county (or elsewhere in the country, in the case of domestic violence survivors).

Legal

5. Legal opinion as to the restrictions on setting rents on these five properties has been sought from external counsel with wide experience of housing matters. Essentially the advice states that the council has "wide discretion" to set a "reasonable charge" for rental of these properties, but further notes that "the HRA ... must accurately reflect the costs (income and expenditure) incurred under that landlord function". The current rent levels are such that they do not reflect the expenditure necessary in relation to maintenance of these properties and cannot therefore be considered "reasonable" in this context.
6. Officers believe that the most equitable and transparent method for setting rents on such properties is to use the rent setting formula which central government have devised for social housing – in other words, to charge a similar rent to that which would be chargeable to social housing tenants were these properties to be added to the general needs stock. Such a rent is referred to as a "formula rent", and is in the region of 45% of an open market rent. Such a rent would be reasonable, and would provide additional income to the HRA without setting a level of rent that would deter providers from entering into lease agreements.
7. The formula used for setting social rents is based on information about local earnings levels, average council rents, and property values (the

baseline values used in the calculation are the 1999 levels). Although the formula itself is complex, officers believe that applying the same measure to these properties as is applied to other forms of social housing is understandable to the non specialist, and provides a clear and transparent rationale for the council's policy in this respect. Appendix 1. shows the level of rent charged on previous leases, and the suggested formula rents for the properties in question, along with market values and rents.

8. Granting of leases on the properties concerned is subject to consent from the Secretary of State, and this will be applied for if the recommendation of this report is agreed. This is a routine matter, and usually such requests are granted expeditiously.

Risk

9. Given the reassurance provided by the legal opinion, there is little or no legal risk to the council in adopting the formula rent approach to rent setting for these five specific properties.
10. A greater risk would attach to charging a straightforward market rent, as this would render the services that are provided in these properties financially unviable, given the level of funding available from the Supporting People Programme and other sources. During a recent procurement exercise carried out by the Supporting people team, potential providers were unable to source non-council owned properties in the city at rents which would have enabled them to provide similar services with the funding that is available. As the Supporting People funding stream will shrink by 5% a year for the next three years, it is essential that an acceptable method of setting reasonable rents on these properties is agreed, if we are not to lose these essential services for the city.
11. Of the four providers concerned in delivering services from these properties, two are current, established users, and two are newly procured by the Supporting People team. The established users have indicated that a formula rent, though considerably higher than their current commitment, would not lead to any withdrawal or reduction of services. The two recently procured service providers are confident that a formula rent can be met from within the funding streams attached to the new services.
12. In terms of the services provided, stringent performance reporting requirements and regular inspections under the Supporting People Quality Assurance Framework are built into the contracts with providers, and provide a good basis for ensuring that services meet nationally recognised criteria.

Financial

13. The effect of this proposal on council finances will be to increase income to the HRA by £56,000 per annum, compared to the rents set

in the previous leases on these properties. Leases at the 2008 market rent level would generate an additional £141,000 per annum, but at the cost of losing the services provided in the properties. Leases will be drafted and agreed with the providers as soon as possible, and no later than the first quarter of the 2009/10 financial year, should the Board agree the recommendation of this report.

Equalities

14. The services provided in these properties are provided by organisations of national good standing, and are funded, at least in part, by the Supporting People programme. Such services are subject to quality assurance processes which are nationally recognised as good practice in relation to equalities issues. Any service failing to meet the stringent requirements in this or any other respect is issued with improvement notices detailing the issues to be addressed, and are regularly inspected and assessed to ensure that the necessary improvements are put in place. Services which fail to improve are served with default notices, and can have contracts terminated. Officers believe the Supporting people Quality Assessment Framework provides a rigorous guarantee that services provided in council owned properties will adhere to the necessary equalities standards.

Environmental

15. The properties concerned are not of the highest standard in relation to energy efficiency, many being of Victorian or Edwardian vintage, and having suffered to some extent from inadequate maintenance over the years. Regularising the lease agreements with the new and current providers offers an opportunity to improve energy efficiency as part of regular maintenance programmes over the coming years.

Recommendations

16. That City Executive Board approves the setting of “formula rents” for these properties.

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Background papers: None.

Rent Setting for properties used as supported housing.

Appendix 1.

Property Details and Formula rents

Property Address	Market Value	Annual Market Rent	Current Or Most Recent Rent	Estimated Jan 99 Value #	Formula Rent p.w	Annual Formula Rent
DV Refuge 1	1,200,000	47,000	£4,202	684,000	366	19,043
Young Persons Hostel	1,000,000	60,000	Peppercorn	570,000	317	16,490
Mental Health 1	1,200,000	55,000	£8,505	684,000	366	19,043
DV Refuge 2	400,000	14,000	£3,447	228,000	170	8,831
Mental health 2	750,000	42,000	£4,633	427,000	256	13,288
TOTAL	4,550,000	218,000	£20,787	2,593,000	1,475	76,696

The market values and market rents were calculated in March 2008, and may well have fallen in the interim period. Market rent” and market value are calculated on the basis of vacant possession and no restriction on use.

The “Estimated Jan 1999 Value” is based on the market value March 2008, factored back to 1999 (57% of 2008 level) as required by the rent setting formula.