

Review of policy for granting rental subsidies to community organisations

Strategy & Resources Committee Thursday, 28 September 2023

Report of: Chief Finance Officer (Section 151)

Purpose: For decision

Publication status: Open

Wards affected: All

Executive summary:

- At Resources Committee on 26 March 2015, a methodology was approved for determining rent reviews and lease renewals where the tenant was considered eligible for a rental grant subsidy.
 - There is currently some inconsistency in the terms offered to tenants. Some tenants receive a rental grant subsidy for the duration of their lease and others receive a rental grant subsidy for the period until the first rent review, which is usually five years. Some tenants receive a 100% subsidy whereas other receive a partial subsidy.
 - Officers are proising some changes to the scheme to make it more consistent, fairer on tenants and to lighten the burden on Council resources.
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This report supports the Council's priority of:

Creating the homes, infrastructure and environment we need.

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Recommendations to Committee:

That:

- A. all future rental grants to be at 100% subsidy, with the following conditions:
 - the tenant is to take over full responsibility for repairs, maintenance and insurance cost at the property, including sports pitches and grounds
 - lease term to be 10-years outside the security of tenure provisions of the Landlord & Tenant Act 1954. Where the tenant wishes to redevelop the property, and the funding source requires a longer lease, then the lease length is to be extended in accordance with funding requirements.
- B. the Committee is also asked to consider whether the Rental Grant Subsidy Sub-Committee should be re-established or if decisions on these applications should remain with full Committee.

Reasons for recommendations:

- Leases drafted in accordance with the existing scheme leaves tenants at risk of an affordable market rent at rent review. Although tenants can apply for an extension to the rental grant subsidy, many are understandably concerned that the regime may not support them at that time.
 - The current scheme is also ambiguous in some respects, and this has caused inconsistency in its application. Some tenants have been awarded rental grant subsidies for the duration of their leases (which can be up to 15-years in length) and others have been given a subsidy for 5-years only. The Committee's original decision envisaged that the rent would revert to a market rent during the lease term. Clarity over lease terms will ensure equitable application of the scheme.
 - The Council spends considerable resource repairing and maintaining sports clubs and community buildings. Even where the maintenance costs can be recharged, there are management costs which sit with the Council. There will be considerable savings if this liability can be passed to the tenants across the entire estate.
 - From the tenant's perspective, if they have no rent burden for the length of the lease, then they will have greater scope to invest in the maintenance and improvement of their premises.
 - The proposed changes to the lease terms, supports the Council's strategic objectives by contributing to the Council's financial sustainability and by improving infrastructure and facilities.
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Introduction and background

At Resources Committee on 26 March 2015, the methodology below was approved for determining rent reviews and lease renewals. It was also resolved that a Rental Grants Subsidy Sub-Committee be established for the 2015/16 municipal year to adjudicate on these rent reviews and lease renewals.

- 1. Where leases are currently being held over, or due for renewal, an exercise will be carried out, based on the criteria set out in the asset management strategy, to ascertain whether the Council wishes to continue with the existing arrangements. If not, then a report will be brought to Committee with recommendations as to alternative use or disposal.*
- 2. If the proposal is that the premises should continue to be let to the current tenant, then a decision needs to be made as to the level of rent to be charged. The presumption is that the face of the lease will reflect the market value based on the current use permitted by the lease but the organisation will be given the opportunity to apply for a rent subsidy grant.*
- 3. It will be important that there is a clear process for considering such applications and it is proposed that this Committee establish a Sub-Committee to consider those applications.*
- 4. The considerations to be taken into account by the Sub-Committee are set out below:*

a. Core Purpose of the Organisation

Does the core purpose of the organisation align with one or more of the Council's key priorities?

b. Membership/Participation/Community use

How accessible is the service in term of opening hours and physical access?

Are membership fees affordable?

Are concessionary rates offered?

How well is the service used by the community?

Are diverse groups encouraged?

Are customers/users mainly from within the District?

Are facilities available to those other than members/regular users?

Does the organisation encourage involvement for all of the community?

Is training/skill development available for non-members?

c. Funding/Financing

How sound is the organisation's finances? (this will require reference to its accounts)

Has the organisation applied for funding elsewhere?

What scope is there for the organisation to increase charges for its services?

What scope is there for the organisation to carry out commercial activity on the premises?

d. What would the consequences be of not providing assistance?

What would be the consequence of not providing subsidy (in part or in whole)?

Would this cause hardship?

Would it mean the service has to stop or change?

5. *In normal circumstances, any rent subsidy grant awarded should be tapered in order to encourage organisations to become more self-sufficient, with rent review periods generally set between 6-9 years.*
6. *Where rent subsidy grant is refused, there should be the possibility of awarding transitional relief in order to provide a buffer for the organisation.*

Officers consider that this original framework for assessing rental grant subsidy applications is satisfactory. However, Officers consider that point 5. above represents unreasonable risk for community groups. Officers wish to remove this rental burden entirely and, instead, place repairing obligations on the tenants.

Repairing obligations are usually better managed by occupiers than by landlords. Also, with certainty over rent obligations, tenants can build up a fund for future repairs and be fully self-sufficient in this respect.

The proposal to clarify and simplify the extent of the subsidy (100% subsidy in all cases), and to specify the lease terms offered, will ensure consistent application of the scheme.

The proposed lease terms for successful rental grant subsidy applicants are as follows:

- 10-year lease outside the security of tenure provisions of the Landlord & Tenant Act 1954.
- Longer term to be considered where the property is to be redeveloped and this is required by the funding sources.
- 100% rental grant subsidy for the duration of the lease term.
- Tenant is responsible for all repairs and maintenance.
- Tenant bears the cost of insuring the property.

Other options considered

Officers have considered a system of monitoring rental grant subsidy recipients to ensure that they continue to satisfy the criteria. However, this would be difficult to administer and resource heavy.

The proposal for a 10-year lease is based on the current market standard for non-residential leases (typically 5 to 10-years). Officers consider that this is of sufficient length to give tenants' security. Many tenants seek leases of 15 to 25-years at lease renewal, however, officers consider that this is only necessary where significant redevelopment is planned and funding requires a longer certain term.

Consultation

These proposed changes are a development of an existing policy and have not been subject to consultation.

Key implications

Comments of the Chief Finance Officer

The proposals set out above are part of a wider strategy to encourage tenants to take responsibility for the repair and maintenance of buildings and will be managed alongside the savings planned in this area. The changes should allow groups more certainty to attract external funding and manage their finances sustainably.

The Council will seek advice from its tax experts on the impact of this change in respect of VAT, and will report back if there are likely to be any issues.

Comments of the Head of Legal Services

There are no legal implications arising from this report. Members are reminded that under Section 123 Local Government Act 1972 a local authority is required to obtain best consideration in the disposal of its land (which generally means obtaining market value). The term "disposal" includes the grant of a lease for a term of over seven years

A local authority can however can grant a lease of more than seven years at an undervalue (ie. below market value), if it can demonstrate that the arrangement contributes to the improvement of the social, economic or environmental wellbeing of the area, or its inhabitants. Given the social benefit and added value provided by some organisations and their volunteers in supporting the Council's objectives of improving the quality of life of its residents there is benefit in their being further clarity on the levels of rent relief available to them. Clearly, Officers in the Asset Management Team will need to assess each business case and supporting information for those eligible for a rental grant subsidy.

Equality

The Council has specific responsibilities under the Equality Act 2010 and Public Sector Equality Duty. Part of this is to ensure that the potential effects of decisions on those protected by the equalities legislation are considered prior to any decision being made.

Section 149 of the Equality Act 2010, provides that a public authority must, in the exercise of its functions, have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the EA;
- advance equality of opportunity between persons who share a relevant protected characteristic (as defined by the EA) and persons who do not share it;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The three parts of the duty applies to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status apply to the first part of the duty.

Members should have due regard to the public-sector equality duty when making their decisions. The equalities duties are continuing duties they are not duties to secure a particular outcome.

Officers will need to consider the above prior to any final decision to grant a rental subsidy and take mitigating action if necessary.

Climate change

Tenants benefitting from rental grant subsidies are required to take steps to improve the energy performance of their building. This will remain a requirement.

Appendices

None.

Background papers

None.

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