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**Decision Maker:** EXECUTIVE

**Date:** 29<sup>th</sup> November 2023

**Decision Type:** Non-Urgent Executive Non-Key

**Title:** LOCAL AUTHORITY & VOLUNTARY SECTOR LEASES

**Contact Officer:** Darren Essex - Assistant Director Property (Interim)  
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**Chief Officer:** Sara Bowery - Director for Housing Planning and Regeneration

**Ward:** All Wards

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1. Reason for decision/report and options

- 1.1 A Member request has been received for a report on the Council's policy on rental subsidies for Voluntary Sector Council tenants providing community benefits. This report provides an initial overview of the property portfolio held by the Council as it relates to its leasing arrangements with Voluntary Sector Organisations. Further detailed investigations would be required to confirm the assumptions presented in this report.

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2. **RECOMMENDATION(S)**

Members are recommended to:

- 2.1 Authorise the Director of Housing, Planning and Regeneration in consultation with the Director of Finance and the Portfolio Holder for Resources, Commissioning and Contract Management to negotiate Payment Management Plans with Voluntary Sector Organisations whose financial integrity may be significantly impacted by rental increases.
- 2.2 Authorise that a Payment Management Plan be considered where a rental increase of over 30% has occurred following a lease renewal or rent review on a Council owned property let to a Voluntary Sector Organisation.
- 2.3 Authorise that Payment Management Plans provide a stepped rental increase over a period of up to 3 three years with the rent payable on the third anniversary of the lease renewal or rent review being the Open Market Rent as determined at the prior (increased rent) lease event and with all future rents to be increased annually in line with CPI (Consumer Price Index).

- 2.4 Authorise that a Payment Management Plan is a one-off transitional arrangement to allow a Voluntary Sector Organisation to adjust to the new increased rent.
- 2.5 Authorise the Director of Housing, Planning and Regeneration in consultation with the Director of Finance and the Portfolio Holder for Resources, Commissioning and Contract Management to negotiate repayment plans or other suitable financial arrangements with Voluntary Sector Organisations outside of the parameters of a Payment Management Plans as set out in 2.2 and 2.3 above. These arrangements may be up to a maximum sum of £50,000 or if higher only with of the approval of the Executive.

### Impact on Vulnerable Adults and Children

1. Summary of Impact: Supporting the continued provision of Voluntary Sector organisation services.
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### Transformation Policy

1. Policy Status: New Policy
  2. Making Bromley Even Better Priority:
    - (1) For children and young people to grow up, thrive and have the best life chances in families who flourish and are happy to call Bromley home.
    - (2) For adults and older people to enjoy fulfilled and successful lives in Bromley, ageing well, retaining independence and making choices.
    - (3) For people to make their homes in Bromley and for business, enterprise and the third sector to prosper.
    - (4) For residents to live responsibly and prosper in a safe, clean and green environment great for today and a sustainable future.
    - (5) To manage our resources well, providing value for money, and efficient and effective services for Bromley's residents.
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### Financial

1. Cost of proposal: N/A
  2. Ongoing costs: N/A
  3. Budget head/performance centre: Investment properties income
  4. Total current budget for this head: £467k
  5. Source of funding: General Fund
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### Personnel

1. Number of staff (*current and additional*): Not Applicable
  2. If from existing staff resources, number of staff hours: Not Applicable
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### Legal

1. Legal Requirement: Statutory S123 Local Government Act 1972
  2. Call-in: Not Applicable
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### Procurement

1. Summary of Procurement Implications: Not Applicable
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### Property

1. Summary of Property Implications: See Report
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### Carbon Reduction and Social Value

1. Summary of Carbon Reduction/Sustainability Implications: Not Applicable
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### Impact on the Local Economy

1. Summary of Local Economy Implications: Ensuring the continuing operations of local Voluntary Sector Organisations.
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### Impact on Health and Wellbeing

1. Summary of Health and Wellbeing Implications: Supporting the provision of Voluntary Sector Organisation services.
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#### Customer Impact

1. Estimated number of users or customers (*current and projected*): Not Known.
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#### Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: Not Applicable

### 3. COMMENTARY

3.1 Whilst further detailed investigations would be required to provide detailed breakdowns of use, occupiers, rent and other determining factors the following information provides a useful insight into the status of Council owned, non-operational, let property within the Council's Non-Investment or Growth Fund property portfolio on the following basis:

- Including, Registered Charities, Community Interest Companies, Registered Societies, Private Limited Company by guarantee without share capital (use of 'Limited' exemption) and Private Limited Company by guarantee without share capital.
- Including, sports groups/'community' groups who are registered as standard private limited companies have been excluded.
- The Council's leisure operator is included except where otherwise stated.
- Parks portfolio and school academies are excluded.
- Income includes all property agreement types, such as leases, licences, wayleaves, easements etc.
- The data may include transactions about to complete, such as disposals, new agreements, rent reviews etc.
- In terms of forecast, an increase of the passing income by 35% has been assumed, to be increased from the event date assuming a 10%, 20%, 30% stepped increase (years 1, 2 & 3), with the income achieving the assumed 35% level increase at commencement of year 4. Any subsequent lease events within the 3 years have been disregarded.
- All nil/peppercorn lettings are excluded from the forecast.
- Where a rent comprises of both base and variable (such as turnover) elements, only the non-variable part has been reported on.

3.2 The total number of properties of qualifying properties under 3.1 above is 783. The total rental income from these is approximately £4.35m per annum.

3.3 The total number of properties let to Voluntary Sector Organisations is estimated at 152 being 19.4% of the 783 (3.2 above). The total rental income is approximately £1.4m per annum or 32% of the £4.35m per annum (3.2 above).

3.4 It should be noted that if the Council's leisure provider is excluded this reduces the Voluntary Sector Organisation income to approximately £520,000 per annum across 139 properties being approximately 12% of the £4.35m (3.2 above).

3.5 At the current time there are 122 properties let to Voluntary Sector Organisations at £1,000 per annum or less, being 15.6% of the 783 (3.2 above).

3.6 As part of the assessment of this proposal, the estates team has considered what the total loss of rent would be if the Council agreed to reduce rents, assuming a 10%, 20%, 30% stepped increase, in years 1, 2 & 3 accordingly, with the rent reverting to Open Market Rent at 35% on the 3<sup>rd</sup> anniversary (with annual CPI increases thereafter). On this basis it is estimated that there would be a cumulative total rental loss of income amounting to approximately £185,000 across 88 properties. This calculation excludes the Council's leisure operator.

3.7 The Council currently has a number of historic occupational arrangements with Voluntary Sector Organisations where it charges a low rent due to the previous valuations undertaken by the Council's former advisor not being correct, having been assessed too low at that time or where they were negotiated as part of an agreement for service provision and in some cases where the rent forms part of a service and payment contract.

3.8 The Council's current policy is to obtain Open Market Value on all its properties in compliance with S123 of the Local Government Act 1972 to achieve best value. This will be maintained

across the Council's property portfolio to protect the Council's rental income stream and the capital value of its portfolio. It should be noted that Open Market Value takes account of the use property as set out within the lease and the nature of the accommodation occupied.

- 3.9 The Council currently monitors payments and where a Voluntary Sector Organisation is not able to meet its rental commitments due to temporary financial difficulties or other mitigating circumstances for example during the COVID-19 emergency. Then the Council can in exceptional circumstances agree repayment plans or other suitable measures to assist the Voluntary Sector Organisation and ensure full rent recovery.
- 3.10 It is apparent that a number of Voluntary Sector Organisations have outstanding rent reviews or lease renewals or will have forthcoming rent reviews or lease renewals events within the next 3 years which may result in significant increases to the rent that they pay to the Council and as a result adversely impact their financial integrity. This could impact on the ability of a Voluntary Sector Organisations to continue operating.
- 3.11 To safeguard the provision of services provided by Voluntary Sector Organisations, protect future income streams to the Council, the capital value of its portfolio and ensure compliance with S123 of the Local Government Act 1972 Members may consider it appropriate to provide Council assistance to Voluntary Sector Organisations by way of a transitional rental arrangement or 'Payment Management Plan'.
- 3.12 Payment Management Plans may be considered appropriate where a rental increase of over 30% has occurred following a lease renewal or rent review at a Council owned property let to a Voluntary Sector Organisation.
- 3.13 Payment Management Plans may provide a stepped rental increase over a period of up to 5 three years with the rent payable on the third anniversary of the lease renewal or rent review being the Open Market Rent as determined at the prior (increased rent) lease event to allow a Voluntary Sector Organisation to make appropriate arrangements to adjust to the new increased rent as a one-off transitional arrangement.
- 3.14 Any rent adjustment below Open Market Rent will need to be reflected in the investment property budget.
- 3.15 It should be noted that the approach taken by some Local Authorities differ from maintaining Open Market Rent to offering some level of subsidy arrangements for some community organisations dependent upon differing determining factors such as financial integrity, provisions of statutory services, contribution to key council objectives and priorities. However a key consideration needs to be loss of income at open market rent and resultant implications.

#### **4. IMPACT ON VULNERABLE ADULTS AND CHILDREN**

Supporting the continued provision of services.

#### **5. TRANSFORMATION/POLICY IMPLICATIONS**

Not Applicable

#### **6. FINANCIAL IMPLICATIONS**

- 6.1 Members are asked to approve the authorisation for the Director Housing Planning and Regeneration in consultation with the Director of Finance and the Portfolio Holder for Resources, Commissioning and Contract Management to negotiate Payment Management Plans with Voluntary Sector Organisations whose financial integrity may be significantly impacted by rental increases.

- 6.2 The payment plans offered are to be offered to those tenants whose rental income has risen over 30% following a lease renewal or review.
- 6.3 The plan comes with the conditions of a maximum of 3 years stepped increase with the 3<sup>rd</sup> anniversary being the point in which open market rent is paid and that this is a one-off transactional arrangement aimed at supporting the voluntary sector organisation to adjust to the increased rental fees.
- 6.4 In financial terms for the council these arrangements do not create a financial pressure, but rather just a delay in benefit as the increases rental income is currently not factored into the budget, therefore as the rental income increases, the council will be generating more income, however where 3 year payment plans are arranged, this benefit takes a little longer.
- 6.5 On the whole this ensures a welcome uplift to rental incomes that have been below market rates for a protracted period. The proposals reduce the impact on tenants and avoid the additional costs associated with re-letting.

## **7. PERSONNEL IMPLICATIONS**

Not Applicable

## **8. LEGAL IMPLICATIONS**

- 8.1 In relation to the proposals set out in this report Section 1 being the general power of competence pursuant to the Localism Act 2011("LA 2011"), gives power to the Council to proceed.
- 8.2 s.111 Local Government Act 1972
- 8.2.1 The Council also has power to do anything calculated to facilitate or is conducive or incidental to the discharge of any of its functions pursuant to s.111 of the Local Government Act 1972.
- 8.3 Section 123 of The Local Government Act 1972
- 8.3.1 If the intended proposals relate to disposals, a local authority has power under s.123 of the Local Government Act 1972 to dispose of the land, so long as the test for the best consideration that can reasonably be obtained (usually based on open market value) is met and the disposal is not at an undervalue.
- 8.3.2 If the disposal is at an undervalue s.123 of the Local Government Act 1972 confers power to the Secretary of State to give general consent for the purposes of land disposals by local authorities carried out under their powers in Part 7 of the 1972 Act.
- 8.3.3 In those circumstances of an undervalue the Local Government Act 1972, General Disposal Consent 2003 removes the requirement for authorities to seek specific consent from the Secretary of State for any disposal of land where the local authority considers that the purpose for which the land is to be disposed is likely to contribute to the achievement of any one or more of the well-being criteria in the Local Government Act 2000:
- a) the promotion or improvement of economic well-being;
  - b) the promotion or improvement of social well-being;
  - c) the promotion or improvement of environmental well-being; and the "undervalue" (i.e. the difference between the unrestricted value of the interest to be disposed of and the consideration accepted) is £2,000,000 or less.

8.3.4 Applications for specific consent should be sent to the Secretary of State and include the following information:

- a) Written description of the land and buildings, the location;
- b) Written description of how the land is currently held by the Council;
- c) Details of any leases, encumbrances such as easements;
- d) Summary of the proposed disposal/transaction.

## 9. PROCUREMENT IMPLICATIONS

Not Applicable

## 10. PROPERTY IMPLICATIONS

See Report

## 11. CARBON REDUCTION/SOCIAL VALUE IMPLICATIONS

This proposal contributes positively to non-financial social value.

## 12. IMPACT ON THE LOCAL ECONOMY

12.1 The voluntary sector is an important part of the local economic ecosystem. The success of voluntary and charitable organisations has a direct impact on the economic health of both the borough and the Council specifically through the provision of community support and wellbeing services.

12.2 Therefore to ensure that there is no detrimental impact on the local economy this report sets out reasonable interventions to ensure that voluntary organisations are supported to remain in the borough through payment plans and other financial support mechanisms required as a result of rent increases. This approach reduces the risk to the borough's most vulnerable of Voluntary Organisations being forced to close, and the economic repercussions of this.

## 13. IMPACT ON HEALTH AND WELLBEING

Not Applicable

## 14. CUSTOMER IMPACT

This proposal has a positive impact on the Council's Customers by supporting the continued provision of Voluntary Sector Organisation services.

## 15. WARD COUNCILLOR VIEWS

Not Applicable

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| <b>Non-Applicable Headings:</b>                       | 5,7,9,13,15    |
| Background Documents:<br>(Access via Contact Officer) | Not Applicable |