

## **Report to the Cabinet**

**Report reference:** C-034-2009/10  
**Date of meeting:** 7 September 2009



**Portfolio:** Legal & Estates/ Housing/ Finance & Economic Development

**Subject:** Financial Assistance for Broadway traders

**Responsible Officer:** Chris Pasterfield (01992 564124)  
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### **Recommendations/Decisions Required:**

To recommend to Council a scheme of rent refunds for shops in Loughton Broadway that matches the temporary amendments to rateable values approved by the Valuation Office in the following respects:-

- a) only properties that have received a reduction in rateable value will be eligible;
- b) the period of the refund will match the period of the reduction in the rateable value; and
- c) the percentage reduction in rent will match the percentage reduction in rateable value.

### **Executive Summary:**

At the meeting of the Overview and Scrutiny Committee on 3 September Members considered the decision made by Cabinet on 13 July not to enter into a rent deferral scheme for shops in Loughton Broadway.

Following careful consideration of the current trading position and changes in circumstances since the original decision, Members felt it was now possible to put in place a scheme of rent refunds to assist the traders.

Even after the rent refund scheme it is anticipated that the revised estimates for the Housing Revenue Account will show a stronger position than the original estimates. However, as the proposed scheme is not wholly in accordance with the current budget, approval is required from Council.

### **Reasons for Proposed Decision:**

To ensure that traders at the Broadway are provided with appropriate and justifiable financial assistance.

### **Other Options for Action:**

To not provide a rent refund scheme or to provide a rent deferral scheme. However, Members have previously decided against a deferral scheme as this was not felt to be a good solution for tenants.

## **Report**

1. The previous Cabinet meeting considered a motion referred from Council which proposed a rent deferment scheme for tenants of the shops at the Broadway and the provision of wider assistance to other tenants of commercial premises. It was decided not to introduce a rent deferral scheme as such a scheme was not felt to be a good solution for either the Council or the traders.
2. From the Council perspective it was important to be fair to all tenants and there was no objective evidence at that time that would allow a distinction to be made between the Broadway and other areas. A rent deferral scheme for all commercial properties could have had a serious impact on the financial position of both the General Fund and the Housing Revenue Account, as there are commercial properties held within both funds.
3. It was also felt that a deferment scheme would be of little benefit to traders as it would only prolong any financial problems and could ultimately do more harm than good.

## **National Non-Domestic Rates**

4. The Council collects national non-domestic rates on behalf of the government and receives back an allocation from the national rate pool (in 2008/09 some £29.4m was collected and paid into the pool whilst £8.2m was received back). The rates payable for a property are determined by its rateable value, which is assessed by the Valuation Office, which has a national rate or multiplier applied to it (46.2p per £ of rateable value in 2008/09). Advice was provided to the Broadway traders on applying to the Valuation Office to seek reductions in the rateable value of their properties for the duration of the enhancement works. Prior to the previous Cabinet meeting no notifications of reductions in rateable values had been received.
5. The Council has now received notifications from the Valuation Office that on average reduce the rateable values of 58 properties in the Broadway by approximately 25%. These reductions cover a period of 242 days when the enhancement works were being undertaken. Amended bills are now being calculated and issued in accordance with the notifications.

## **Housing Revenue Account**

6. The original estimates for the Housing revenue Account were constructed on the basis of government advice and regulations in place at that time and predicted a deficit for 2009/10 of £388,000. Members may recall that shortly after these estimates and the associated rent increase were set the government changed their guidelines for rents. The initial guidelines encouraged rent increases in excess of 6%, Members had felt this to be excessive and set a lower increase of 4%. The revised guidelines required authorities to limit increases to 3% and tenants will be receiving amended charges for their rent in due course.
7. The combined effects of the change in rent guidelines and other late government amendments became clear on 28 August when the Council submitted the latest housing subsidy claim to the Department for Communities and Local Government. It is now anticipated that the negative subsidy payable to the government for 2009/10 will be £9.75 million instead of £11.2 million. There are two negative factors to off-set against the reduction of £1.4 million, firstly the loss of approximately £250,000 of rent

(due to the change in the rent increase from 4% to 3%). Secondly, interest earnings will be lower than originally anticipated and this may impact by as much as £500,000.

8. The revised estimates are still very much work in progress and there are a number of other issues that need to be looked at in detail. However, based on the key items identified above a prudent prediction is that the revised estimates will show a small surplus rather than a £388,000 deficit.

### **Rent Refund Scheme**

9. In the time available it has not been possible to calculate a precise figure for the cost of the proposed scheme. A scheme that matched the reduction applied by the Valuation Office of a 25% reduction for a 242 day period would have a cost in the order of £160,000. If the scheme is designed to exactly match the reductions in rateable value then each property will need to be reviewed individually.
10. It is proposed that where a tenant is not in arrears their subsequent invoices should be reduced to take account of the refund. If a tenant is in arrears it is proposed that any refund will be off-set against their arrears.

### **Resource Implications:**

The proposed scheme is likely to reduce rental income to the HRA by £160,000. However, even allowing for this it is still anticipated that the revised estimates for the HRA will show a stronger position than the original estimates.

### **Legal and Governance Implications:**

If the Council makes a rent refund it could be seen as accepting liability for losses suffered during the period of the enhancement works. Before making any payment the Council should be satisfied that the losses claimed have actually been incurred. Any payment should be ex gratia and paid as full and final settlement of any claim. That would have to be agreed under correspondence between the parties marked 'without prejudice' before any money is parted with to be binding.

### **Safer, Cleaner and Greener Implications:**

There are no environmental implications.

### **Consultation Undertaken:**

The recommendation was endorsed by the Overview and Scrutiny Committee on 3 September.

### **Background Papers:**

Previous reports to Council, Cabinet and Overview and Scrutiny

### **Impact Assessments:**

#### **Equalities**

The recommendations are not felt to have any equalities impacts.

#### **Risk Management**

If a scheme is put in place to assist the Broadway claims may arise for similar assistance elsewhere. However, it may be possible to distinguish the circumstances of the Broadway based on the enhancement works and the reductions in rateable values.

If no scheme is put in place the Council could be criticised for failing to assist the traders, particularly in view of the financial strength of the Housing Revenue Account.