



REPORT TO: CORPORATE COMMITTEE ON 11 JUNE 2024

SUBJECT: INFORMATION REPORT: COMMUNITY RENTAL SUPPORT ANNUAL REVIEW

BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND FINANCE)

1. REASON FOR REPORT

- 1.1 This report provides information on the level of rental support awarded to voluntary and community organisations (VCOs) occupying Council property.
- 1.2 This report is submitted to the Corporate Committee in terms of Sections III (B) (20) and III (B) (30) of the Council's Scheme of Administration relating to the management of Common Good and Trust property and to the monitoring and review of concessionary rents respectively.

2. BACKGROUND

- 2.1 On 1 September 2015, the Policy and Resources Committee agreed that rental support provided to VCOs occupying Council property be monitored by means of an annual report (para 8 of Minute refers). On 25 May 2016, the Council agreed that all new requests from VCOs for leases at less than market value would be considered under the Community Asset Transfer (CAT) scheme (para 22 of Minute refers). New lease applications dealt with under the CAT scheme are covered in a separate annual report.
- 2.2 Leases where the property has no commercial value, where the rent payable has been reduced to reflect an agreement that the tenant will undertake improvement works to the property, or where the Council's ability to charge a rent is restricted, do not involve the provision of discretionary rental support. Such leases are outwith the scope of this report.

Legacy Arrangements

- 2.3 **Appendix 1** lists those leases where the property is considered to have a commercial value and where nominal rentals result from the provision of discretionary rental support. In most of these leases, there is no provision to review the rent payable during the lease term. When they come to an end the tenant can negotiate a new lease on commercial terms or apply under the CAT Scheme for a new lease at less than market value.

Community Rent Rebates

- 2.4 From 23 March 2005, the Council changed the way it handled requests for rental support from VCOs. Instead of agreeing a nominal rent, the rent payable was set at a commercial rate and the VCO could apply for a discretionary limited life rental grant or rent rebate. Under these arrangements, the rebate ceases whenever the rent is due to be reviewed. The VCO can then apply for a continuation of the rent rebate. When the lease comes to an end the tenant can negotiate a new lease on commercial terms or apply under the CAT Scheme for a new lease at less than market value.
- 2.5 **Appendix 2** lists those leases where the tenant currently benefits from a rent rebate. As each lease comes to an end, any request for a new lease with rental support would be considered under the CAT scheme. The total rental support provided under these arrangements for the 2023/24 financial year amounted to £25,390. This comprised £7,590 relating to the general fund, £11,400 relating to common good, and £6,400 relating to public trusts.

Short-Term Low-Value Rental Concessions

- 2.6 On 12 May 2021, Moray Council delegated authority to the Chief Financial Officer to approve applications for short-term low-value concessionary arrangements to facilitate a light touch process and enable a quick response (para 16 of Minute refers). When the value of the rebate reaches the delegated limits, any further application must be brought to committee for determination.
- 2.7 **Appendix 3** lists those leases where the tenant enjoys a rent rebate approved under delegated authority. No applications for short-term low-value rental support were received during the 2023/24 financial year.

3. SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

Leasing assets to the community at less than market value can support the Corporate Plan priority of building thriving, resilient, and empowered communities and the LOIP priority of empowering and connecting communities.

Where a property is held on a Common Good title, the interests of the inhabitants of the former burgh will take precedence over the Council's Corporate Plan and the Local Outcomes Improvement Plan (LOIP).

Where the property is held under a Public Trust, it is burdened with the trust purposes. Consequently, any application for financial support must be considered only in relation to these purposes.

(b) Policy and Legal

On 21 March 2017, the Policy and Resources Committee approved the following policy statement in relation to Community Asset Transfers (para 5 of Minute refers).

“Moray Council recognises the important role that the transfer of property assets can play in empowering communities and strengthening their resilience. Where appropriate, the Council will use the transfer of assets to give more control to communities and local people, inspire them to find local solutions to community needs, and as a means of helping communities become more sustainable in the long term. In determining all asset transfer requests, the Council will have regard to the guidance provided by the Scottish Government in relation to asset transfer requests made under Part 5 of the Community Empowerment (Scotland) Act 2015, whether or not such requests are made under the provisions contained in the Act.”

When assets are leased at less than market value, the arrangement must comply with the Disposal of Land by Local Authorities (Scotland) Regulations 2010. These regulations require the Council to be satisfied that the arrangement is reasonable and that it is likely to contribute to at least one of the following purposes:

- a) Economic Development,
- b) Regeneration,
- c) Public Health,
- d) Social Wellbeing, or
- e) Environmental Wellbeing.

Reasonableness in this context is taken to imply that the requested discount is the minimum necessary to allow the projected benefits to be realised and that it is proportionate to the costs and benefits.

In administering Common Good assets, the Council is required by section 15(4) of the Local Government etc. (Scotland) Act 1994 to have regard to the interests of the inhabitants of the area to which the Common Good related prior to 16 May 1975.

Where the Council Members act as Trustees under a Public Trust, they are not acting in the capacity of a local authority but in their capacity as Trustees under and in terms of the Trust.

The Subsidy Control Act 2022 came into effect on 4 January 2023, replacing the previous State Aid provisions. The Act can apply whenever the Council sells or leases a property at less than market value, provided that the conditions for a subsidy are met. In particular, the beneficiary must constitute an ‘enterprise’ due to its activities involving the offering of goods or services. Section 7(2) of the Act provides that an activity is not to be regarded as an economic activity if or to the extent that it is carried out for a purpose that is not economic. If the activity is not for economic purposes, then the body will not be considered an enterprise and any financial assistance provided would not be considered a subsidy under the Act.

(c) Financial Implications

There are no financial implications arising directly from this report.

(d) Risk Implications

There are no risk implications arising directly from this report.

(e) Staffing Implications

There are no staffing implications arising directly from this report.

(f) Property

There are no property implications arising directly from this report.

(g) Equalities/Socio Economic Impact

An equalities/socio-economic impact assessment is not required.

(h) Climate Change and Biodiversity Impact

There are no climate change or biodiversity implications arising from this report.

(i) Consultations

The Depute Chief Executive (Economy, Environment and Finance), Chief Financial Officer, Community Services Manager, Property Asset Manager, Legal Services Manager, Susan Souter, Senior Accountant, Community Learning and Engagement Manager, Democratic Services Manager, and Equal Opportunities Officer have been consulted and their comments incorporated in the report.

4. CONCLUSION

4.1 Although the Council has established appropriate arrangements for assessing new requests from VCOs for leases at concessionary rentals, there remains a legacy of agreements entered into prior to these arrangements coming into force. Some agreements involved setting a nominal rent that subsists until the end of the lease. Others can be reviewed at regular intervals. This report sets out the level of rental support provided under these arrangements together with support approved under delegated powers.

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