



Report of the Cabinet Member for Investment, Regeneration & Tourism

Cabinet – 18 February 2021

Recommendation for the Treatment of Rents at Swansea Market for Application from the End of the Last Concession Period (16 November 2020) to the End of the 2020/21 Financial Year

Purpose:	To agree an approach to the treatment of rents at Swansea Market to be implemented from the end date of the initial agreed COVID-19 related rent concession period (16 November 2020) to the end of the 2020/21 financial year.
Policy Framework:	Corporate Priorities, Swansea Central Area Regeneration Framework (SCARF), Financial Procedure Rules.
Consultation:	Access to Services, Finance, Legal, Property Services.
Recommendation(s):	It is recommended that: <ol style="list-style-type: none">1) During periods of COVID lockdown (i.e. at times when non-essential retail is not permitted to trade), all traders receive a 70% reduction in rent.2) At all other periods until the end of the COVID pandemic, a rent concession is granted to individual traders who demonstrate a 40% fall in turnover during a defined period compared to the same period last year. Traders not eligible for Welsh Government grants to date would receive a slightly higher discount upon demonstration of a 30% fall in turnover.3) In the event that lockdown is lifted but not all non-essential retailers can resume business (e.g. close contact services such as beauty salons must remain closed), these individual businesses would be treated as a unique case and would continue to receive the 70% reduction in rent until such a time when they are legally permitted to re-open.

- 4) Swansea Market rents are calculated and due every 4 weeks. The concessions would cover the following rental periods:
16 November 2020 to 13 December 2020
14 December 2020 to 10 January 2021
11 January 2021 to 7 February 2021
8 February 2021 to 7 March 2021
8 March 2021 to 4 April 2021

For the purposes of ease of administration and simpler communication to Swansea Market Traders, it is proposed that the concessions apply to 4 April 2021 instead of 31 March 2021.

Report Author:	Sarah Lawton
Finance Officer:	Ben Smith
Legal Officers:	Sally-Ann Evans / Tracey Meredith
Access to Services Officer:	Rhian Millar

1.0 Introduction

- 1.1 The previous package of COVID related rental concessions granted by the Council to Swansea Market traders began on 9 March 2020 and concluded on 15 November 2020. These were agreed by Cabinet at meetings on 16 July and 19 November 2020.
- 1.2 From 15 November 2020, 5 scheduled rent periods remain for the rest of the 2020/21 financial year. The last period ends on 4 April 2021. 100% rental charge is the current position.
- 1.3 Prior to the Welsh Tier 4 lockdown introduced on Sunday 20 December, representations had been made by traders asking that going forward the rent be based on footfall. This has been considered but is an unorthodox method of rent valuation which sets a dangerous precedent and is not acceptable.
- 1.4 However, reflecting upon how the current COVID situation is legitimately impacting the viability of businesses in the Market, a rent concession is recommended. Under current restrictions, footfall is approximately 30% of pre-COVID footfall.
- 1.5 This should be considered in conjunction with the significant grant support that Welsh Government is providing to businesses – which is designed to help cover fixed costs such as rent.
- 1.6 An alternative approach is proposed which aims to support those traders most in need. This will be related to turnover and administered via a simple application system comparative to the model that has been successfully implemented in Llanelli and Carmarthen Markets.

1.7 It is also recommended that when in a state of lockdown (current and in the future) and non-essential retail is not permitted to open, a rent reduction at 70% is automatically applied to all traders.

2.0 Summary of rental concessions and grant support to date

2.1 Total financial value

Period (2020)	Concession	Rationale	Value
9 March – 28 June	100% rent waiver	National Lock-down	£367,060
29 June – 23 Aug	Rents @ 35% of standard level	Interim measure to support the traders to adapt and re-build their businesses following the COVID-19 pandemic.	£201,881
24 Aug – 15 Nov	Rents @ 70% of standard level		
23 Oct – 9 Nov	100% rent waiver	Wales Fire-break	£32,100
TOTAL VALUE:			£601,041

2.2 Following an application to Welsh Government, the Council has recovered £440,000 of the total loss of £601,041. This accounts for losses up until the end of Quarter 2. It is hoped that further concessions granted by the Council may also be recoverable from Welsh Government, however this is not guaranteed.

2.3 Standard rent levels are dependent upon size and location of stalls ranging from £227 per period to £2,500 per period. Below is an example of how an average trader could have benefitted from these rental concessions from 9 March to 15 November 2020:

Rent per period (100%)	£766
Amount due over 9 periods (9 March to 15 Nov) – WITHOUT concessions	£6,894
Amount actually invoiced over 9 periods (9 March to 15 Nov) – WITH concessions	£1,761 (ie. 26% of full rent)
Total average concession value	£5,133

2.4 Additionally, Welsh Government have provided cash grants to businesses. Please see Appendix 1 for details of such grants that have been available to Swansea Market traders.

2.5 Welsh Government support has also been available to all eligible traders in the form of:

- Business Rate Relief
- Self-Employment Income Support Scheme
- Coronavirus Job Retention Scheme
- Statutory Sick Pay Rebates
- Business Bounce Back Loans

- Business Interruption Loan Scheme

2.5.1 City Centre Management has signposted traders to this support throughout the pandemic and helped deal with multiple trader queries.

2.6 It is reasonable to assume that there have been financial ‘winners and losers’ following the support granted to date.

2.7 Below is an example of what this grant support would mean for a ‘non-essential’ trader with a NDR rated stall using the average rent in point 2.3 above.

Standard rent due	Invoiced rent	Value of concession received	Welsh Government grant received
£6,894	£1,761	£5,133	£17,000

2.8 Below is an example of what this grant support would mean for an ‘essential’ trader who doesn’t occupy a NDR rated stall using the average rent in point 2.3 above.

Standard rent due	Invoiced rent	Value of concession received	Welsh Government grant received (<i>upon successful application</i>)
£6,894	£1,761	£5,133	£4,000

2.8.1 There are six stalls within Swansea Market that would fall into the category of being ‘essential’ and not occupying a NDR rated premises.

2.9 All traders occupying rateable premises during the first lockdown were awarded £10,000 whether they were ‘essential’ retailers or not. Some of these traders continued to use the Market as a hub (rent-free) from where they operated a delivery service model. This undoubtedly provided a valuable service to the community and there was huge demand.

2.10 It should be noted that despite generous rent concessions and grant support, a few traders have still failed to pay any of the rent invoices issued. These will be subject to debt recovery action by Legal services once the Council moratorium on such action has been lifted.

2.11 Two stalls were due to be surrendered back to the Council at the end of December. However, these ‘non-essential’ retailers have asked to continue to trade for a few months longer. This is a positive in terms of occupancy, but may also reflect that for some the COVID situation is a better financial proposition given the rent reductions and grant awards.

2.12 Discussion with NMTF (National Market Traders' Federation) suggests that Swansea Council has by far been one of the most generous market operators in the UK in terms of rent concessions during the pandemic.

3.0 Proposal

3.1 It is proposed that a means tested system is introduced as a fairer approach to rent concessions going forward. It would also ensure that funds are targeted to those most in need.

3.2 It is recommended that such a system is applied for rent due from 16 November 2020 to 20 December 2021 (5 weeks). Going forward, the same system would be applied outside of lockdown periods up until the end of the 2020/21 financial year.

3.3 It is proposed that a **30%** rent reduction is provided for traders who can evidence a **40%** drop in turnover in comparison to the same period year on year.

3.4 A different basis would be provided for those traders who were not trading last year. The evaluation period would be for the July, August and September financial quarter. (This was a period without any lockdown or firebreak and would likely offer the fairest basis for an assessment.)

3.5 This turnover assessment would include all business sales such as online and deliveries and not just in person sales in the Market.

3.6 Traders who do not occupy NDR rated premises and who did not receive any grant support could receive a higher level of rent reduction at **40%** for the same period and upon evidence of a **30%** drop in turnover.

3.7 Criteria, such as payment of invoices up until the end of the last concession period would apply.

3.8 Welsh Government discretionary grant support is offered to eligible businesses who can evidence a **40%** drop in turnover during a specified period. The same approach to rental concessions would be consistent with this.

4.0 Assessment of Proposal

4.1 There will likely be disappointment felt by some traders as this approach means that a concession is not automatically awarded and they will need to apply. Some traders may also be reluctant to share their financial records and may complain the level of concession is less than what has been granted previously i.e. 30-40% versus 30-70%. However, it is still a generous offer of support and a system that has been used successfully in other markets.

Advantages	Disadvantages
<ul style="list-style-type: none"> • Only those in most need would receive it • It would limit Council income loss • Evidence would need to be provided • Data could also give insight into performance of the Market as a whole 	<ul style="list-style-type: none"> • High number of queries from traders and guidance required • Resource required for administration of applications and subsequent credits • Traders may be reluctant to provide financial information

4.2 It is reasonable to assume that those who can legitimately demonstrate a fall in turnover and in need of financial support will provide the financial information as requested. Those who have been in receipt of discretionary funds from Welsh Government would have already had to have provided similar information.

5.0 Administration

5.1 An application system would be devised to ensure that the process, whilst robust and auditable, is user friendly and can be administered quickly.

5.2 State aid, GDPR and rights of appeal are among the key measures that will need to be built into procedures.

5.3 Rents are now overdue for the period 16 November to 13 December 2020 and invoices have been issued at full rent for the period as originally planned. For the subsequent period, credits will be given to traders who have successfully applied for the turnover-related concession.

6.0 Financial Implications – Turnover-related concessions

6.1 The financial impact of maintaining a blanket approach to rents as per the initial approach – i.e. all traders receiving a 30% discount - would be **£34,411 over 5 weeks** (16 November to the start of the Tier 4 lockdown / 20 December 2020).

6.2 Based upon the experience of other markets who have successfully adopted the proposed means tested approach (many from the start of the crisis), the eligibility rate is likely to be between 30% and 40%. For Swansea Market this would mean a total loss of revenue of:

Period	Loss at 30% trader eligibility	Loss at 40% trader eligibility
5 weeks (16 Nov to 20 Dec 2020)	£10,322	£13,763

6.3 It is recommended that a turnover related concession becomes the standard approach to consideration of COVID rent reductions during the rest of the financial year. The estimated loss per week would be £2,064 (at 30% trader eligibility) or £2,753 (at 40% trader eligibility). However, as per

Paragraph 7.0 below, it is recommended that a different approach is taken during lockdown situations where non-essential retail are not permitted to trade.

- 6.4 The only exception would be in the case of the lifting of lockdown where some traders would still not be legally permitted to re-open. For example, whilst non-essential retailers may return, legislation may prohibit close contact services such as beauty salons to resume. There are 3 such close contact services in Swansea Market. In this instance, an approach in line with 'lockdown concessions' would continue to apply to these traders.

7.0 Tier 4 Lockdown

- 7.1 On Saturday 19 December, the Welsh Government announced that a Tier 4 lockdown would commence on 20 December meaning that all non-essential retail would close with immediate effect.

- 7.2 Swansea Market remains open for essential traders and approximately 20 stalls continue to operate. This is mostly essential food traders, but some are takeaway businesses. Non-essential traders can also offer a click and collect service from the Market.

7.2.1 Footfall figures are understandably low – approximately just 30% of pre-lockdown footfall and 20% of pre-COVID footfall.

Date	Footfall	Headcount at 1pm
(Pre-COVID) Weds 7 August 2019	12,502	N/A
(Pre-lockdown) Weds 5 August 2020	7,498	188
(Current) Weds 13 January 2021	2,371	29

- 7.3 The lockdown presents a new challenge on how rents are managed going forward. At this time it is unknown how long the lockdown will be in place, whether any further support will be available as well as the possibility of future lockdown scenarios.

- 7.4 A continuation of a means tested approach would mean that some traders may not get any concession. Further, there may be some opposition to the level of reduction proposed given that it is less than before i.e. 70% versus a 100% rental waiver in the two previous lockdowns.

- 7.5 However, a full rent concession (i.e. 100% waiver) for all traders would carry a loss of £91,765 each period. This is unsustainable particularly given that fixed costs remain and operational costs are being incurred as the Market remains open to essential traders. Depending on length of lockdown, the loss would be:

Dates	No. of periods	Loss
21 Dec – 7 February	2 periods	£183,530
21 Dec – 7 March	3 periods	£275,295

21 Dec – 4 April	4 periods	£367,060
------------------	-----------	----------

- 7.6 Alternatively, it is recommended that a 70% rent reduction for all traders is applied, as was the case of rent concessions for lockdown recovery in June and July 2020.

Dates	No. of periods	Loss
21 Dec – 7 February	2 periods	£128,471
21 Dec – 7 March	3 periods	£192,706
21 Dec – 4 April	4 periods	£256,942

- 7.7 The recovery of some rent helps limit Council loss and also recognises that all Swansea Market traders are receiving Welsh Government support which is supposed to be used to help cover fixed costs such as rent.

8.0 Financial Implications–Turnover-related and Tier 4 Lockdown concessions

- 8.1 Given that the duration of the Tier 4 lockdown is unknown, it is difficult to predict exact losses but the below would be a reasonable assumption for the remainder of the financial year:

Type of concession	Period	Value
Turnover related	16 Nov to 20 Dec 2020	£13,764
Tier 4 Lockdown (70% rent reduction)	21 Dec to 7 March 2021	£192,706
Turnover related	8 March to 4 April 2021	£11,010
TOTAL		£217,480

- 8.2 It is hoped that these Quarter 3 and Quarter 4 losses will be recoverable in part or full from Welsh Government. However there is no guarantee that this will be the case or what the position will be next financial year. These proposals offer support to the traders but also help safeguard the Council's position regarding the Market going forward.

9.0. Recommended next steps

- 9.1 It is recommended that the below is endorsed as a standard approach to the treatment of rents in response to the COVID pandemic up until the end of the 2020/21 financial year:

Business 'as usual' i.e. essential and non-essential retail can open	Turnover / means tested approach – rent concession granted upon successful application
--	--

National or local lockdown i.e. only essential retail can open	70% rent reduction for all traders

- 9.2 As such, the turnover / means tested method is to be applied from 16 November until the rental period ending 4 April 2021 unless in a lockdown situation.
- 9.3 Treatment of rents during Tier 4 lockdown (from 21 December 2020), and future lockdowns should they occur, to apply a wholesale rent reduction approach of 70%.
- 9.4 Traders who may still not be permitted to trade at the end of current Tier 4 lockdown, or subsequent lockdown scenarios, (e.g. potentially close contact services), will continue to receive the lockdown rent concession until they are legally permitted to re-open.

10.0 Equality and Engagement Implications

- 10.1 The Council is subject to the Public Sector Equality Duty (Wales) and must, in the exercise of their functions, have due regard to the need to:
- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - Foster good relations between people who share a protected characteristic and those who do not.
- 10.2 In order to comply with the relevant equality regulations, an EIA Screening Form has been completed with the agreed outcome that a full EIA report is not required in this instance.
- 10.3 The EIA Screening Form is appended as a background paper to this report.
- 10.4 Swansea Market traders are Council tenants operating under lease or licence agreements with set rent levels. From the beginning of the COVID pandemic, a rent concession package has been granted to traders and in order to continue to support these businesses to the end of the financial year. City Centre Management is proposing further concessions. There is no proposed change to their tenancies or for rents to be increased above their contracted levels. As such, the potential impact for all groups is low.

11. Legal Implications

- 11.1 There are limited legal implications associated with this report.

11.2 Whatever the decision with regard to the approach to the treatment of Swansea Market rents, there still remains a risk of arrears, which could be higher than normally experienced. Instrumental to the debt recovery process will be the readiness of Legal and Accounts Receivable resources.

11.2 The current Market leases are being held over as part of a lease renewal process. This recommendation does not alter the terms of the lease or the passing rent levels. The recommendation is simply a short term concession in response to an unprecedented situation. Consideration should be taken of the Concessionary Letting Policy.

Background Papers: EIA Screening Form

Appendices:

Appendix 1 - Welsh Government COVID cash grants that have been made available to Swansea Market traders