

South Ayrshire Council

**Report by Executive Director – Resources, Governance and Organisation
to Leadership Panel
of 19 February 2013**

Subject: Variation of Lease – Units 5 to 9, Newton Trading Estate, Ayr

1. Purpose

- 1.1 To obtain Panel approval to vary the terms of the existing lease of the premises occupied by ICT and Property Maintenance and Construction Services at Newton Trading Estate, McCalls Avenue, Ayr.

2. Recommendation

- 2.1 **It is recommended that the Leadership Panel authorises the Executive Director - Resources, Governance and Organisation to conclude a draft Minute of Variation, recording the new landlord from 8 January 2013 as being TRUFFLE 1 LLP and providing for rent reviews to open market value on a 5 yearly basis during the extended term of the lease.**

3. Background

- 3.1 The Council's occupation of the premises under the terms of the original lease was due to expire in 2019. Following the issue of a Schedule of Dilapidations by the landlord, an options appraisal was undertaken by the Council. There were protracted negotiations in connection with the rent review of 2009 and these discussions resulted in the property being completely refurbished and a change of the User Clause agreed with the landlord.
- 3.2 A Minute of Variation was concluded in July 2010 formally recording the revised rent, the change to the User clause and the lease being extended to 2030, with an option available to the Council to further extend to 2034.
- 3.3 The new landlord has requested that provision for rent reviews be included within the Minute of Variation agreement during the extended period of the lease. [REDACTED]
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4. Proposals

- 4.1 The new landlord's solicitors have made a 'without prejudice' offer of £10,000 to the Council subject to agreement to conclude an additional Minute of Variation with the new landlord including provision for rent reviews in 2019, 2024 and 2029.

5. Resource Implications

5.1 Financial

There will be a revenue receipt of £10,000. The annual rent for the premises is £130,000 pa, which is fixed until 2014, when the next rent review is due (under the terms of the original lease, not the extension). It is not possible to predict the outcome of future rent reviews, however any increase in the annual rental charge will require to be met through the revenue budget process.

5.2 Legal

Legal Services will be required to review and conclude the draft Minute of Variation.

5.3 Human Resources

Not applicable.

6. Risk

- 6.1 Rejecting the proposal would risk creating difficulties in the relationship with the Council's new landlord for the remaining 17 years of the lease. Rejecting the proposal would also risk Council becoming involved in court proceedings, with potential costs involved.

7. Equalities

- 7.1 This report is not proposing new services, policies, strategies, or plans (or significant changes to or reviews of them). It does not propose decisions about budgets, including budget cuts or service reductions. This report therefore has not been assessed for equalities impacts.

8. Sustainable Development Implications

- 8.1 This report does not propose or seek approval for a plan, policy, programme or strategy or document otherwise described which could be considered to constitute a plan, programme, policy or strategy.

9. Options Appraisal

- 9.1 No option appraisal has been carried out in relation to the subject matter of this report.

10. Link to Council's Priorities/ Improvement Programme

- 10.1 Not applicable.

11. Results of Consultation

- (1) There has been no public consultation on the contents of this paper.
- (2) Consultation has taken place with Councillor Robin Reid, Portfolio Holder for Resources and Performance.

Background Papers E-mail from Dickson Minto WS dated 9 January 2013
Draft Minute of Variation of Lease prepared by Dickson Minto WS

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