

Part 8 - Property Procedure Rules

1 Management of the Council's Property Assets.

- 1.1. In these Rules, property means any land and/or buildings in which the Council has a legal or equitable interest.
- 1.2. The Head of Property is delegated all the Council's powers necessary to acquire, dispose of and manage Council property in accordance with these Rules, subject to the following:
 - 1.2.1. The Executive must approve property disposals, acquisitions and other decisions that are key decisions in accordance with Article 13 of the Constitution and the Council's financial thresholds for key decisions in Part 5 of the Constitution;
 - 1.2.2. Decisions on the acquisition or disposal of property for investment purposes only in accordance with the Council's Investment Property Portfolio Policy are delegated to the Strategic Director of Finance and the Chief Executive in consultation with the leader of the Council as appropriate under the Financial Procedure Rules.
 - 1.2.3. The Council's General Scheme of Delegation;
 - 1.2.4. The management of residential housing stock is excluded;
 - 1.2.5. The management of highways is excluded; and
 - 1.2.6. Any other statutory requirement.
- 1.3. In these Rules, the 'Head of Property' means the Chief Officer with responsibility for the management of the Council's property portfolio.

- 1.4 The Head of Property may delegate his/her functions under these Rules to one or more Council officers but must record any delegations in writing providing a copy to the Director of Governance.

Ownership and use of Council property

- 1.5 The Council owns all Council property assets corporately. Council services or other occupiers of Council property do so as tenants of the Council managed by officers in accordance with the Corporate Asset Management Plan.
- 1.6 The Capital Strategy and Asset Management Group (CSAMG) is a senior officer governance body with the remit to be the Council's advisory body for the Council's capital strategy and all property asset management.

Corporate Asset Management Plan

- 1.7 The Head of Property is responsible for preparation of the Council's Corporate Asset Management Plan, in conjunction with relevant services.
- 1.8 The overarching Corporate Asset Management Plan will set out the basis on which the service or partners occupy premises.

Schools Asset Plan

- 1.9 The Deputy Chief Executive for Families is responsible for the Schools Asset Plan. This plan must align with the Council's Corporate Asset Management Plan as far as is practicable.
- 1.10 The head teacher and governing body are responsible for fulfilling the role of 'responsible custodians' of school premises. This includes but is not limited to ensuring that the site and buildings are managed in an appropriate manner and identifying the future premises needs of the school through the school

development plan.

- 1.11 Individual local authority maintained (community) schools are responsible for the management of assets set out in the Council's Local Management Scheme and in relevant legislation, with responsibility resting with the governing body and head teacher although absolute responsibility remains with the local authority.
- 1.12 For voluntary controlled and voluntary aided schools, the diocesan board/trust and the governing body are responsible for management of assets.
- 1.13 The governing bodies of academies and free schools have responsibility for managing their assets.

Termination of service use of Council property

- 1.14 The relevant Head of Service must give as much notice as possible and not less than three months' notice of termination of the use of any Council property. The Service remains responsible for all running and other costs of the property, including security costs, during the notice period. The Service must allow the Head of Property to market the property if it is to be disposed of and allow access to prospective future users to view the property.
- 1.15 All vacant properties referred to the Head of Property will be reviewed and if suitable for re-use, appropriate recommendations made to the CSAMG in line with the vacant properties criteria as outlined in the Corporate Asset Management Plan.
- 1.16 All vacant / surplus properties will be reviewed annually as part of the Asset Management Planning process.

Public Notices

- 1.17 The Head of Property has power to issue any public notice required by statute or otherwise in respect of Council property.

2 Disposal of Property

- 2.1 The Head of Property is delegated all the Council's powers to dispose of its property, subject to 1.2 and where otherwise expressly stated in these Rules.
- 2.2 All disposals must be for best consideration and advertised on the open market, except where provided by these Rules.
- 2.3 The Head of Property may, with the agreement of the Director of Finance, dispose of property for less than best consideration in accordance with Section 123 of the Local Government Act 1972 or other statutory provision and taking into account any Council policy relating to property disposals.
- 2.4 Prior to the disposal of property, the Head of Property will consult with CSAMG or its successor group by submitting an options report which will include recommendations. The options report will include:
- 2.4.1 the most appropriate method of disposal;
 - 2.4.2 whether a development or planning brief should be prepared and included in the sale documents; and
 - 2.4.3 whether the disposal is for less than best consideration and the grounds for this. The Head of Property will make the final decision but the Director of Finance will be consulted on the report and agree any disposal where 2.3 applies.
- 2.5 Where a disposal is by public auction, the property must not be sold at less than the reserve price agreed by the Head of Property and the appointed auctioneer.
- 2.6 Where the disposal is by private treaty, the asking price must be not less than the Head of Property valuation or the agent's valuation, if one is appointed.
- 2.7 Where the disposal is by competitive tender, the following steps must be taken:

- 2.7.1 The property must be advertised and placed in at least one Newspaper, journal or electronic media likely to be read by persons interested in the property and at least two newspapers and/or journals or electronic media which are likely to be read by persons involved in property or development.
- 2.7.2 The advertisement must describe the property, state where further details can be obtained and invite tenders giving a closing date for receipt of tenders at least 14 days later.
- 2.7.3 The receipt and opening of tenders must be carried out in accordance with the Contract Procedure Rules.
- 2.7.4 If the Head of Property is of the opinion that a tender other than the highest should be accepted, Rule 2.3 applies.
- 2.7.5 If the Head of Property thinks that no tender represents the best price which can reasonably be obtained, he or she must consider re-tendering the property concerned, or other method of disposal.
- 2.7.6 If the highest tender is received late or does not comply with these Rules or the Council Procedure Rules, the Assistant Director Procurement and Commissioning will decide the appropriate course of action, upon advice from the Director of Governance.

Negotiations

- 2.8 A written record of any negotiations must be made for the acquisition or disposal of an interest in property. The Head of Property must approve terms provisionally agreed by the negotiators.

3 Acquisition of Property

- 3.1 The Head of Property is delegated all the Council's powers to acquire property,

subject to 1.2 and where expressly stated in these rules.

- 3.2 The service requiring the interest in property to be acquired must in accordance with the Council's budget framework ensure an adequate business case is prepared with funding available for the full costs of acquisition (including any necessary professional fees). All business cases will be referred to and reviewed by the Head of Property.
- 3.3 The Head of Property must approve provisional terms for all acquisitions of property interests.
- 3.4 The Head of Property must certify that the price and terms and conditions of all acquisitions are fair and reasonable and represent the best that can be negotiated.

4 **Tenanted Non-Operational Property**

- 4.1 This section applies to tenanted property which is not used for the Council's own services, for example commercial property.
- 4.2 The Head of Property has delegated powers to undertake all necessary management action in respect of interests in property leased from or to the Council including:
- 4.2.1 Grant leases or licences up to a term value of £1million in respect of any Council property or land holding;
- 4.2.2 Settle the terms for all rent reviews or lease renewals, arising under existing leases, and to approve the appointment of an arbitrator, independent expert or mediators where necessary;
- 4.2.3 Determine all applications for consents required under existing leases, (e.g. assignments, sub-lettings, changes of use alterations) and settle any

terms arising;

4.2.4 Issue warrants of distress to certified bailiffs in respect of rent arrears or other due debts on any non-residential property;

4.2.5 Settle the terms for compensation of dilapidations arising from the ending of leases/licences in respect of all types of property;

4.2.6 Negotiate or accept surrenders of leases or tenancies or agree minor variations or extensions to the terms thereof; and

4.2.7 Approve, in consultation with the Director of Finance, arrangements for the acceptance of financial offers in relation to sums due and outstanding to the Council in respect of non-residential rents and service charges, etc.

5 **Property Compensation**

5.1 The Head of Property has delegated powers to:

5.1.1 Determine home loss/disturbance payments under the Land Compensation Act 1973 and the exercise of the Council's discretionary powers under Section 37 (5) of the Act;

5.1.2 Determine well-maintained payments under Schedule 23 of the Housing Act 1985;

5.1.3 Settle the amount of a 90% advance payment of compensation authorised by the Land Compensation Code in circumstances where such a payment has been requested; and

5.1.4 To agree payments in full and final settlement with claimants or their representatives, subject to ensuring adequate budget provision is available and obtaining advice from the Director of Governance.

- 5.1.5 Determine the amount of the sealed offer to be made in compensation claims to the Upper Tribunal (Lands Chamber) or First Tier Tribunal, as appropriate.
- 5.1.6 To agree the making of a Compulsory Purchase Order (CPO) up to the land value of £499,999, including the submission of Statements of Reasons, Statement of Case and all other necessary documentation but where the value is between £100,000 - £499,999 the decision must be made following consultation with the Portfolio Holder.

For Information: CPO's where the land value is £500,000 and above are to be made by the Executive unless expressly delegated by the Executive.

6 **General Property Management**

6.1 The Head of Property has delegated power to:

- 6.1.1 Settle the terms of compensation in connection with Discontinuance Orders and Stop Notices;
- 6.1.2 Provide all property valuations for appropriations, stock transfer, balance sheet, statutory, subsidy, internal rate of return and grant purposes and to determine transfer, asset or inter service rents;
- 6.1.3 Agree rights of way, easement and way leave agreements with statutory undertakers, public utility and telecommunications companies and adjoining property owners;
- 6.1.4 Make planning applications for marketing or development purposes;
- 6.1.5 Arrange for the removal of persons/s or effects occupying or present on Council premises without authorisation;
- 6.1.6 Lodge objections/proposals and pursue rating appeals in respect of Council premises where an over assessment seems probable; and

6.1.7 Settle the terms for the modification or release of restrictive covenants in freehold titles and leases in respect of matters considered to be uncontroversial.

7 Appropriations

7.1 Subject to any statutory descriptions, the Head of Property is delegated powers to appropriate land (i.e. transfer Council property from one use to another). Any appropriations must be made in consultation with the Executive and/or Strategic Director(s) whose services are affected.

8 Capital Receipts

8.1 All capital receipts generated from the disposal of Council property/properties will be allocated to the Corporate Capital Budget.

9 Officers' Responsibilities: Conduct, Conflicts of Interest & Corruption

9.1 These Rules are mandatory for all officers involved in the management of Council property. Failure to follow these Rules may constitute misconduct leading to disciplinary action. If any officer witnesses or identifies a failure to comply with these Rules, they should raise it with their manager or report it confidentially under the Council's Whistleblowing Policy.

9.2 The Code of Conduct for employees applies to the procurement of all contracts and, in particular, the following parts:

1.7.1. 4.3 – Relationships with Contractors

1.7.2. 7 – Personal interests

1.7.3. 8 – Equalities

1.7.4. 9 – Separation of roles in tendering

1.7.5. 10 – Corruption

1.7.6. 11 – Use of financial Resources

1.7.7. 12 – Gifts and Hospitality

1.7.8. 13 – Sponsorship – Giving and Receiving