

Slough Borough Council

Acquisitions and Disposals Policy

June 2026

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Introduction

- 1.1 This policy is divided into three sections and covers acquisitions and disposals that the Council may enter into. The policy is not intended to be comprehensive, covering each and every eventuality, but does cover the general transactions that the Council will enter into and covers other complex transactions that the Council has entered into in the recent past.
- 1.2 A separate policy covering Community Asset Transfer (CAT) has already been adopted and is a partner document to this policy, as CAT is most often a distinct type of disposal of land or property and therefore is a supporting document to the disposals section of this policy.
- 1.3 In terms of policy structure, the Acquisitions and Disposal Policy sits under Slough's Asset Management Plan (SAMP). It is intended that this policy will be reviewed every 5 years or when policy development is required, for example if legislation changes. The reason for combining the Asset and Disposal Policies is to have a single point of reference for property transactions. This also allows complex transactions which involve acquisitions and disposals to be considered, and these are contained in section three.

Section One – Acquisitions Policy: This covers the purchase of assets, and the approach that the Council will take.

Section Two – Disposals Policy: This covers the disposal of assets.

Section Three – Other Transactions: This covers scenarios where elements of acquisition and disposal may come together to form a property transaction.

To aid the reader, key points are set out as bullet points within the text.

Acquisitions

Background

- 2.1 In 2025, the Council adopted its Asset Strategy which set out the need to have an Acquisitions Policy and to update the Council's existing Disposal Policy. Previously, the Council did not have an Acquisition policy.
- 2.2 The Asset strategy prioritises financial resilience and debt reduction, aiming to dispose of surplus property and only acquire assets vital for service delivery.

Objective

- 2.3 The reason the Council requires an Acquisition Policy is to enable a clear and consistent approach to acquiring land and property. This policy expands the information contained in the revised Asset Management Plan detailing the specific approaches that the Council will take when it seeks to buy land or property.
 - 2.3.1 The policy must be read in conjunction with the Council's constitution, scheme of delegation and Contract Procedure Rules.
 - 2.3.2 Although the policy does not place a bar on complex transactions, these types of transactions do need additional scrutiny and assurance around them so decision takers are clear on what the implications and risks for the transaction are, alongside the opportunity it could create for the Council.

Principles

- 2.4 From time to time, the Council needs to buy land and property. A wide range of reasons as to why an asset needs to be bought may be put forward, however ultimately it will distil down into one or a combination of the three reasons set out below:
 - 2.4.1 Operational - The Council delivers services to residents using land and property assets as part of its normal operation. Adding its operational portfolio to deliver these services, subject to the appropriate business case and funding, may be a practical response to operational challenges and opportunities the Council faces.
 - 2.4.2 Strategic - The Council can, where appropriate, act in a strategic way in the acquisition of land and property, to deliver the aims and objectives of the Council. A good example of strategic delivery would be the purchase of land to deliver a new road.

- 2.4.3 Commercial and Investment – Commercial Investments – those made to regenerate the Borough or immediate economic area to encourage private investment and to create or retain local jobs

Acquisition – Business case

- 2.5 Acquisition of land and property is predicated on a robust business case, aligned with Council processes, legal requirements and government guidance whilst also considering the overall financial position of the Council. This approach includes appropriate levels of due diligence and compliance with achieving value for money.
- 2.5.1 Should the Council wish to purchase an asset, the reasons for doing so must be very clear, highlighting the benefits and risks of undertaking the transaction, as well as the alternatives to the acquisition. The Council should also have the funds (capital and revenue allocation) in place to undertake the transaction and manage the asset (capital to purchase the asset and revenue to manage it into the future). Permission will be needed to allocate funding and is needed to make the acquisition.
- 2.5.2 Due to the inherent nature of land and property and its ownership not all risks can be completely managed and mitigated, but this inherent quality of assets also generates the opportunities for the positive outcomes that the Council wishes to achieve when buying an asset.
- **The purpose for acquiring the asset must be clear, the alternatives and risks must be known, and the costs to buy and operate the asset must be in place.**

Constitutional Requirements

- 2.6 The approach to decision making is also set out in the Council's Constitution having regard in particular to the Committee Terms of Reference, the Budget and Policy Framework the Council's Financial Regulations and the Scheme of Delegation to Officers.

Reasons to buy land and property assets

- 2.6.1 The reason for any acquisition needs to be aligned to the Council's corporate objectives with a clear purpose as to why the asset is being purchased: be this buying an asset to enable it to deliver its services.
- 2.6.2 Should an asset be acquired that does generate an income, the Council will manage the asset in a commercial way until the reason the asset has been bought has been achieved. Some assets may be managed with the intent of achieving the reason the assets have been bought, for example seeking vacant possession, so a building may be demolished.
- **The Council will not acquire a land and property asset primarily for Investment. It will acquire assets as part of its wider policy goals and objectives.**

Departmental Liaison

- 2.7 In taking any decision there is a statutory requirement to consult with both finance and legal teams, however on the adoption of the Corporate Landlord there is also a requirement to engage with Services. The recommendation to acquire land or property needs to be made considering the expertise from across the Council.
- 2.7.1 The Council's legal team will only accept an instruction to buy a land and property asset for the General Fund from the Property Team. Early engagement with the team is essential to ensure that the Council's interests are protected. Negotiation of terms should not be undertaken without their advice.

- **Close liaison with the department that wishes to acquire the asset, their finance team, the Capital team, legal and the Estate team is essential to achieve a successful acquisition.**

Funding

- 2.8 The Council must fund acquisitions by securing grants or using capital funds. If the Council is using its own capital funds this might require borrowing and therefore the implications of taking that decision should be clearly understood by decision takers. The overall financial position of the Council and the affordability of the transaction needs to be considered in that context, including the implications for cost of borrowing and holding the asset. It is important that the councils requirements for acquisitions is known through the relevant strategies, to minimise the borrowing needs.
- 2.8.1 Funding must be in place to cover the whole cost of acquisition, which can include fees (for example legal and professional fees) and SDLT (Stamp Duty Land Tax). The cost of undertaking due diligence also needs to be factored in. An allowance also may also need to be made for revenue funding to manage the asset.
- 2.8.2 Funding must be allocated to the Capital programme so it can be accessed. This can be done in advance (for making an allowance for acquisitions) as part of the Council's budget setting process, or other arrangements can be made in year to allocate funding.
- 2.8.3 Early engagement with the relevant finance teams is key to ensuring that appropriate funding is in place.
- **Capital funding is needed for the whole cost of acquisition, and the revenue cost for managing the asset post-acquisition also needs to be considered.**

Financial implications

- 2.9 Acquisitions typically see the use of Capital funding. Works in advance of the actual transaction can usually be assigned to Capital, for example due diligence work. However, should the transaction not progress and no asset is acquired the Council is no longer able to assign the spending to an asset and as a result any expenditure is converted to revenue in year and this may have direct consequences to the Council's in year financial position.
- 2.9.1 Once the Council owns an asset, it is responsible for it as a landowner. This is likely to have financial implications for the Council: for example, if repairs are needed or the building needs to be secured. Due diligence can assist

with understanding the implications of acquiring an asset but may not be able to completely discharge or mitigate all risks completely.

Asset Selection

2.10 Selection criteria need to be established to aid identifying the asset that the Council needs to buy or acquire a lease for. Type, location, size are examples. These need to be clear and easily understood.

- **An example of good practice is the Housing Team which working in partnership with the Asset Management Service has developed its selection criteria using this approach.**

2.10.1 Although these criteria may change and evolve as a property search is underway, and if this is the case the criteria can be updated, this will give a clear way of understanding if an asset meets the requirements of the Council.

2.10.2 This selection criteria can then be matched with any due diligence work to determine if acquiring the asset meets the needs of the Council.

- **Have a clear understanding of what the Council wishes to buy.**

Due Diligence

2.11 The approach to due diligence commences as the asset is identified, prior to interest having been expressed up to the point of sale. A critical factor for any transaction is to be very clear on what the Council is agreeing to purchase. This may include detail that is not clear at the headline level of the transaction, for example reservation of rights over land, or the red line plan not aligned to ownership. Due diligence should allow a decision taker to be as fully informed as possible about an asset so they can assess, if the reasons for buying the asset can be achieved and if the risk of buying the asset outweighs the reasons for doing so.

- **How does what the Council wants to buy match the transaction that is been considered?**

2.11.1 Due diligence needs to be completed prior to the parties being contractually bound to transact. In the case of an Auction any due diligence work needs to be completed prior to the auction.

- 2.11.2 Commercial Property Standard Enquiries (CPSE) are the standard set of enquiries that are undertaken as part of any property transaction and information within the seller's pack should contain most of this information. Work on CPSEs is normally undertaken as part of the legal work needed to transact a property. This is the very basic level of due diligence needed in a property transaction in the UK, and it is standard practice to recommend additional due diligence for any acquisition.
- 2.11.3 Further Due Diligence is needed, irrespective of the asset, as a minimum, an inspection should also be undertaken prior to agreeing to purchase. Depending on the complexity of the asset further elements of due diligence may also need to be undertaken. The starting point is an inspection and review of the vendor's pack of information, with additional inspections as required following that. This can include, but are not exclusive to, issues such as repair, condition, inspection and review of occupational leases. The extent of due diligence will be dependent on the time available within the transaction and complexity of the asset. The strategy for due diligence should be agreed beforehand and where appropriate external advice sought regarding the level of due diligence needed. When the Council uses information provided by the vendor, which is a common practice, careful inspection of reliance statements should be undertaken and the implications of this reported to decision takers.
- 2.11.4 At the end of the due diligence process reference back to the Council's advisor on value may be appropriate: for example, if the Council's valuation advisor excluded some element of information from their assessment of value.
- 2.11.5 Getting the right advice is critical to successful due diligence and where appropriate external advice needs to be sought. The cost of this exercise needs to be captured within the overall cost of the acquisition. This may include external legal, building surveying and valuation advice, although additional advice from other professionals may be needed. Should the transaction fail due diligence, work would not be coded to capital but converted to revenue in year. Due to the nature of land and property, not all issues and risks will be captured by a due diligence exercise.
- **Due diligence must be appropriate to the asset that is being acquired. Its findings need to be explained to decision takers.**
 - **Due diligence work should identify risks and how these will be managed and include any recommended overarching governance arrangement for the operation of the asset in the future, and if there are any complex management arrangements within the asset to be purchased.**

2.12.3 Lease arrangements also need to be considered, including whether the lease is within or outside the Landlord and Tenant Act 1954 and if there are any onerous conditions.

- **A clear understanding of the asset that is been bought and how it is to be operated is required. This includes having the resources to manage the asset in the future.**

Valuation

2.12 Dependent on the acquisition approach taken, valuation advice will be needed to support the decision-making process. The extent of this advice may vary depending on the type of transaction that is being considered. Unlike disposal of assets there is no statutory requirement to achieve 'best consideration that is reasonably obtainable' for acquired assets in section 123 of the Local Government Act 1972, but the Council does have a fiduciary duty to demonstrate that it is managing public funds in a prudent way and in addition to best consideration that the best value is being delivered. However to all intents and purposes the Council will still endeavor to acquire property at no more than market value.

2.12.1 The standard approach to valuation is to seek a Royal Institution of Chartered Surveyors (RICS) compliant valuation (commonly known as a red book valuation) from a suitably qualified professional advisor, although this is not suitable in all circumstances. In the case of Compulsory Purchase not all elements of the compensation package would be aligned to the Red Book, although there is legislation and case law which guides this. Additionally, where development appraisal work is needed this is also not covered by the Red Book. Time and cost to prepare a Red Book valuation can also be a factor where more straightforward valuation advice may be best suited to the need of the Council. It is noted that the assessment of value is at a fixed point in time and value of an asset can go down as well as up.

- **Appropriate valuation advice must be sought for each transaction.**

Transaction

2.13 The only team within the Council with the appropriate skills to negotiate the acquisition of land and property is the Asset and Estate Management Team. The Manager of Assets and Surveying will determine on a case-by-case basis whether to use the Council's internal team or agents acting on behalf of the Council to agree terms. It is likely that if appointed the agent will also undertake valuation of the asset. Additional specialist advice, for

example development appraisal work may be needed to support any negotiation and to support. The reason this approach is to be taken is to protect the Council's negotiation position and to ensure the best possible terms can be obtained.

2.13.1 It is essential that the service that wishes to acquire the asset provide detailed instructions and liaises closely with the Asset Management Team to assure the best prospect of success.

2.13.2 The pace of an acquisition can vary, but normally the transaction will proceed at a pace that fits within the normal decision-making timelines of the Council. In certain instances, this may not be the case, for example where the Council has entered a contract that dictates the timeline. Auctions or entering options are examples of this. Some vendors may also dictate the pace of a transaction, for example institutional investors tend to transact property quickly. In cases where a transaction needs to progress at a pace that is quicker than normal the Council's constitutional requirements will be followed whilst also seeking advice from the Council's legal and finance services.

- **Decision takers need to understand if the pace of the transaction has affected work such as due diligence.**

2.13.3 Establishing a relationship between buyer and seller is normally achieved by the Council seeking to purchase an asset on the open market, or less commonly where it is approached or directly approaches an asset owner. Typically, these scenarios will follow the approach set out in this policy, however there are two additional acquisition approaches where additional

work would be required to progress a transaction and these are acquiring assets at Auction and Compulsory Purchase Orders (CPO).

- 2.13.4 Acquisition at Auction. The price achieved at a properly held auction is considered to be market value and therefore there is no requirement to have separate valuation advice. Once the auction has completed, the parties are in contract, the purchaser must be able to pay a deposit and transact within a set period, normally within 28 days. Therefore, any due diligence needs to be undertaken prior to the Auction.
- 2.14.3 When bulk buying assets in a particular area, for example in lieu of a CPO, where the scope of what is required is known, this can be an effective means of buying assets.
- 2.14.4 Unlike other acquisitions, the bidder, which would be a Council Officer, needs to be authorised prior to the sale to act on behalf of the Council, effectively having delegated powers to act within certain confidential parameters, up to a pre-approved purchase price. A specific business case, budget, bidding parameters and decision making would need to be developed in order to bid at Auction. Therefore, although not outside the scope of this policy further work would be needed to enable this approach if it were needed. The Council cannot delegate the decision to purchase an asset to a third party.
- **Additional work is needed to enable the Council to buy assets at Auction. This would be delivered on a case-by-case basis if required.**
- 2.14.5 Compulsory Purchase Orders. The Council can acquire land and property compulsorily. Should the Council wish to exercise its powers a specific decision regard making a CPO is needed. Due to the complex nature of CPO additional specialist legal, CPO and surveying advice may be needed.
- 2.14.6 At a very basic level the Council needs to be able to explain why it must undertake a CPO and show that it is able to implement its proposals, for example that it has the means to be able to acquire the assets and deliver whatever the proposed scheme is. The reasons that the Council puts forward need to outweigh the rights of those with an interest in land or property.
- 2.14.7 Prior to undertaking a CPO, the Council will seek to understand who owns or have interests in land or property that could be affected and as the proposal progresses will seek to acquire those assets on a voluntary basis, as part of the CPO process.

- **Additional work is needed to enable the Council to buy assets by CPO. This would be delivered on a case-by-case basis if required.**

Decision Making

- 2.14 The approach to decision making is set out in the Council's constitution , however for the purposes of this policy, the decision taker(s) must have a very clear picture of what they are being asked to do and the reasons they are being asked to make that decision balanced with the risks of taking the decision. This needs to also reflect the current financial position of the Council. Where there are gaps in information this should be articulated. It is very likely that any decision to buy land and property will have an exempt appendix. The reason for this is to allow full disclosure to the decision taker regarding the transaction as it will allow information that is commercially sensitive to the Council as purchaser and the vendor.
- 2.14.1 Although it is incumbent on the report writer to set out a sound case for proceeding with a transaction, it is incumbent on decision takers to ask questions if there are any elements of the decision that they are not clear on. This is particularly important when considering complex property transactions. Where complex property transactions are being presented a workshop prior to decision making may be asked for by, or offered to, decision takers so they can understand the mechanics of the transaction they are been asked to decide on.

Disposal Policy

Background

- 3.1 The Council previously established a Disposal Policy. In line with normal policy management this should be updated every 5 years or when there is a need to develop the policy. This is an overarching policy linked to the Community Asset Transfer Policy to enable the Council to be consistent with all forms of property disposal and transfers.
 - 3.1.1 Disposals (and Community Asset Transfers) are a key component to the approach that the Council is taking to rationalise its estate. The Council is currently developing a Corporate Landlord Model (CLM) which will look to manage all the Council's Land and Property assets in a holistic way, with Council services becoming users or occupiers of a corporate estate. The Council is also developing an Estates Transformation Model whereby it is seeking to identify assets it no longer needs: because of this work, it is anticipated that the Council will have a smaller, leaner estate focused on the operational delivery of the services the Council provides.
- 3.2 It is MHCLGs expectation that in disposing of assets council should avoid sales that do not represent value for money and where possible the disposal of community heritage assets, to protect the public ownership of locally significant sites and ensure residents can continue to benefit from them
 - 3.2.1
 - 3.2.2 As a consequence of this work, it is likely that the Council will have more assets that are surplus to requirements, resulting in disposals of assets.

Community Asset Transfer Policy

- 3.3 The Community Asset Transfer (CAT) Policy is aligned to the approach adopted in the Asset Management Plan enabling delivery of services to residents, working across various community-based organisations and partners.
 - 3.3.1 The CAT Policy underpins the Council's ambition to help communities become more independent and self-sufficient, allowing them to take ownership of public buildings so they can be run in a way that provides benefits to those communities and the wider borough. The CAT policy also recognises the challenges that the Council currently faces, balancing the need of the Council to respond to the fiscal challenges it faces.
 - 3.3.2 The current CAT policy was adopted in 2025.

Objective

- 3.4 The key objective of this policy is to set out and deliver a consistent and transparent approach to the way the Council disposes of land and property assets.
- 3.4.1 Assets will be disposed of in an open and transparent way aligned to the Council's processes around decision making. Due to the commercial element of some transactions, there may be a requirement to have an exempt appendix to the report. This exempt appendix enables decision takers to have the fullest information possible to make their decision, without compromising the commercial sensitivity of a property transaction for both the Council and any prospective purchaser.
- 3.4.2 Business cases will be supported by a red book valuation carried out by a third party, RICS accredited valuer.
- 3.4.3 During the term of this policy, there maybe additional supporting documents that are required to be included, such as financial modelling.
- 3.4.4 Disposals will also be reported to the relevant decision-making body throughout the year to enable scrutiny of these transactions and their progress.

Principles

- 3.5 The approach adopted will be aligned to the Asset Strategy, the Corporate Objectives of the Council and the Council's Constitution. To be an efficient organisation the Council will only retain ownership of land and buildings which it requires for any of the following:
- service delivery
 - to deliver the Council's Strategic Objectives
- 3.5.1 Assets that are not needed for these reasons are considered surplus. The Council will seek to dispose of all land and property assets which are identified as surplus. Assets that are surplus are defined as follows:
- Those that make no contribution to service delivery, either directly or indirectly
 - Those that generate no income and have no potential for future service delivery or community regeneration purposes.
 - Those that under-perform in that their revenue return is unsatisfactory compared to the capital value of the asset.

3.5.2 However, the Council has several key priorities which it wants to see delivered and which can only be delivered through the use of assets. Prior to taking a decision to make an asset surplus, the Council will consider if it wishes to re-use the asset for another purpose. Input from Council services is key in considering the release of an asset. Alternative uses, such as re-use for affordable housing or other uses can be considered as part of the decision making. It is noted that any proposal must have a reasonable prospect of being funded and consider the current financial position of the Council. Any proposal to use assets in this way also needs to be balanced against the Council's financial position. As such options will be presented and clearly articulated to members as part of the disposal decision process.

Statutory Considerations

3.6 Best Consideration, price, and value are terms that are used when considering the value of an asset. Section 123 of the Local Government Act 1972 provides that the consideration should not be less than that which can reasonably be obtained. This is normally referred to as 'best price' and is most likely to be market value. There are instances where this may not be the case.

3.6.1 There are reasons why the Council may wish to sell an asset at less than best consideration that can be reasonably obtained. The General Disposal Consent (England) Act 2003 provides for the Council to dispose of assets at less than market value provided:

- The purpose for which the asset is to be disposed of is likely to contribute to the promotion of the economic, social, or environmental wellbeing of the Borough, and;
- The difference between the unrestricted or market value of the asset and the consideration for disposal does not exceed £2 million.

3.6.2 This approach is normally described as 'best value' as a more rounded assessment of the benefits of a particular transaction needs to be considered. Best value is not an approach the Council will use if considering commercial transactions.

- **The reasons for adopting this approach need to be clearly articulated to decision takers.**

3.6.3 Leases less than seven years are not considered in the Local Government Act 1972 as a disposal; however, it is normal for Council's to apply the same basic principle is of obtaining best consideration in these leases.

3.6.4 There is a specific requirement to consider loss of public open space. Open space plays an important component of the environment and community.

3.6.5 Section 123 of the Local Government Act 1972 also makes provision regarding disposal of public open space. The nature of what constitutes public open space is not defined in the legislation, and in all cases advice from legal services will be obtained when considering disposing of this category of asset.

3.6.6 There is a defined notice process which invites representations from the public about the land in question. This includes publication in a newspaper for 2 consecutive weeks, notices on site and at a place where the public has access to the information, typically a civic building or library in the locality.

3.6.7 In considering selling an asset there is a requirement to consider the submissions of the public and take account of any such representations before making a final decision on whether to dispose of such land

3.6.8 The default approach, where no representations relating to loss of open space are made by the public (subject to appropriate delegations being in place) is for an officer decision to be made.

- **No asset, where open space forms a part, will be considered to be released for sale until this process has been followed and completed.**

3.6.9 The Council can also be statutorily obliged to dispose of assets, for example as part of the academisation process for schools. Where disposal is aligned to these approaches the relevant process will be followed.

Implementation and Procedures

3.7 Assets no longer required by a service department or deemed to be under-performing by the Manager of Assets and Surveying, will be tested against the following option appraisal. This will be used to inform the draft

recommendation of any decision report. Close liaison between departments of the Council is needed to deliver this approach effectively.

- Is the asset required to operate the Council? By default, any asset that is currently being held vacant will be considered as surplus to the Council's requirements (excluding those that are been marketed for commercial occupation).
- Is there an alternative use for the asset? Should a service wish the Council to retain an asset for a specific purpose an assessment needs to be provided to confirm that there is a reasonable prospect that the asset will be brought back into use within a defined time period. This can include service, regeneration or housing delivery. This must also be balanced against the Council's financial requirements.
- Is the asset required by the Community? This is managed through the Community Asset Transfer Policy. An assessment needs to be provided to confirm that there is a reasonable prospect that the asset will be brought back into use within a defined time period.
- For avoidance of doubt, a Community Asset Transfer will be for an interested parties to take on the running of a building for a maximum of 7 years initially and does not have to have a established use, leasehold or tenant of a building whereas, A special purchaser already has a established use, is a tenant or holds a freehold in the building and will be able to take a long leasehold.

Disposal method

- 3.8 Disposals cannot be progressed until a formal / documented approval has been made.
- 3.9 Once an asset has been declared surplus the Manager of Assets and Surveying will decide on the most appropriate method of disposal, selecting from one of the options outlined above.
- 3.10 Although it is not always possible, the Council will endeavour to occupy assets until they are disposed of to mitigate and manage the cost and risks of holding assets vacant. Where an alternative use for the asset has been identified, for example for housing or regeneration purposes the Manager of Assets and Surveying will work closely with the relevant services, including the legal and procurement teams to determine the best approach to releasing the asset to its future use.
- 3.10.1 Public Auction is an effective way of releasing assets. Sales complete usually within 28 days of the auction completing with the asset selling to the highest bidder. A properly organised and advertised Auction also has the

benefit of demonstrating that the Council has achieved best consideration. They are effective at determining market value for an asset and this can be advantageous for, for example in a changing market, or where due to the nature of an asset its market value is not easily estimated.

The authority to sell includes a specific requirement to obtain best price. The reserve is recommended by the auctioneer, based on feedback, the number of auction pack downloads, number of registered bidders. The approval of the reserve is with the Assistant Director Property and Investment.

- 3.10.2 Informal Tender works by advertising the asset for informal bids. It is common to understand as part of this process what the purchaser wishes to do with the asset. Once bids have been received this informal process can allow for further negotiations in respect of more detailed terms with one or more bidders can be undertaken. Issues like the relative strengths of bidders can be considered as part of the decision-making process, although this is not a procurement process. This gives the Council significant leeway over that approach to secure the best purchaser. The Council currently uses an agent to ensure that any asset for sale is properly advertised and appropriate property advice and due diligence about the purchaser can be obtained.
- 3.10.3 Private Treaty is one of the most common sales methods in the UK and is the methodology normally adopted for selling private dwelling houses. Assets are marketed with an asking price and offers considered as they are received. A good understanding of market value is needed as this process may not demonstrate best consideration reasonably obtainable. If this method is adopted a Local Agent may be retained, subject to the Council's procurement rules and additional valuation work may be needed.
- 3.10.4 Special purchaser will not include adjoining landowners.
- 3.10.5 Valuations for a special purchaser will follow the RICS Global Valuation Standards (Red Book) in which it sets out the process for valuations for special purchasers.
- 3.10.6 The Government has introduced a concept of One Public Estate in 2013. It is obvious that should another arm of Government need an asset that is surplus to the Council's requirements, particularly where there are synergies with delivery of Council services, that the Council should be open to transacting directly with that party. Although other agencies will support the operations of the Council, they do not directly deliver services that the Council delivers.
- **The Council will transact on the basis of open market value.**
- 3.10.7 Formal Tender. The Council is not likely to use a formal tender approach to purely dispose of an asset. This approach works by advertising the asset for formal offers or bids for the asset. This general approach could be used when the Council requires a specific outcome, but this then ceases to be a

disposal and becomes a procurement. More restrictive for the Council, it also tends not to be preferred by purchasers.

3.10.8 Community Asset Transfer. Disposal for a community asset transfer would be delivered using the Community Asset Transfer Policy. Any asset of interest to the Community will be dealt with in accordance with the Community Asset Transfer Policy, normally by way of leasehold transfer. However, if the criteria under that policy are not met and, at any stage, it appears to the Council that there is little or no likelihood of a community-based group being able to take over a building, the asset will be dealt with in accordance with this Disposal Policy.

3.10.9 Procurement. The basic principle of selling an asset is that the Council would no longer control the asset, permanently or for a period of years, in the case of a lease. If the Council wishes to control the use of the asset or the outcome of a development, then it needs to undertake a procurement exercise where a development agreement alongside a property transaction will be enacted. This is considered further under section three of this policy.

- **When selling an asset, the Council cannot control future use of the asset as part of the sale otherwise this becomes a procurement exercise.**

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Special Purchaser

3.10.10 Special Purchaser transaction has a very narrow definition. For The Council, a special purchaser will mean a party that already has an interest in an asset, or has land directly adjacent to the site

3.10.11 A special purchaser will be able to either purchase a long leasehold or the freehold, based on the future requirement of the Council

Sale without marketing

3.11 From time to time the Council is approached by purchasers wishing to buy an asset, but without marketing it. This goes against the basic principle of being open and transparent about property transactions. Where it is in the Council's interest to deal with a single party, it will need to obtain independent professional advice on property value, as a means to establish the market value

- **There will be no obligation on the Council to sell the asset and an option to test the market can be considered. Any off market disposals will be subject to an independent valuation to demonstrate that offers received are in line or better than the best value**

Negotiation

- 3.12 The only team within the Council with the appropriate skills to negotiate the disposal of land and property is the Asset Management team. The Manager of Assets and Estates Team will determine on a case-by-case basis whether to use the Council's internal team or agents acting on behalf of the Council to agree terms. It is likely that if appointed the agent will also undertake the valuation of the asset. Additional specialist advice, for example development appraisal work may be needed to support any negotiation and to support. The reason this approach is to be taken is to protect the Council's negotiation position and to ensure the best possible terms can be obtained.

Valuation

- 3.13 Dependent on the approach taken, valuation advice will be needed to support the decision-making process. The extent of this advice may vary depending on the type of transaction that is being considered.
- 3.13.1 The standard approach to valuation is to seek an RICS (Royal Institution of Chartered Surveyors) compliant valuation (commonly known as a red book compliant valuation) from a suitably qualified professional advisor, although this may not be required in all circumstances.
- **Appropriate valuation advice has to be sought for each transaction.**

Terms

- 3.14 As part of the strategy to dispose of an asset the Head of Property, will also carefully consider the terms a property will be disposed by.
- 3.14.1 Price. Following the appropriate committee or Officer approval to dispose of property assets, the property will be disposed of in the most appropriate method. The Council will typically delegate the approval of the final sale price to a relevant officer. In the case of auctions, the reserve is set based on advice from the auctioneer and sold in accordance with the auction rules and regulations.
- 3.14.2 Term of years. For sales of surplus assets, the default will be a freehold disposal, however where the Council needs to exercise control or assure itself regard future use then a lease will be considered. Community Asset Transfer enables local communities to take control of assets for the benefit of that community: therefore, a freehold sale would not be appropriate in this

circumstance. In areas where there is a strategic reason to retain an element of control, for example town centres, a lease may be the best approach to disposal.

- 3.14.3 Other terms. Leases will include terms which can restrict the use of assets and the nature of future lessees to which the lease can be assigned. They will also clarify any obligations such as repairing liabilities. They can also impose obligations on the Council as lessor.
- 3.14.4 Conditional sales. Transactions can be agreed subject to certain conditions being met: a good example of this can be a sale subject to the purchaser securing planning permission, or a similar approval or consent. This type of arrangement can generate additional certainty for both the purchaser and vendor in certain circumstances. Although there are certain advantages of this approach it also has disadvantages, for the vendor the principal issue is time, as it can take a considerable period for a purchaser to work through the relevant steps to secure planning consent and this passage of time can have other issues for the progress of a successful sale.
- **Deferred sales are a useful technique from time to time, in limited circumstances for key assets.**
- 3.14.5 Overage is normally used to protect the value of the vendor and does not specifically prevent future use of land. The most common example of the use of overage is when post sale a purchaser obtains permission for an alternative use. Overage is normally applied for a defined number of years and on a sliding scale. Specialist surveying advice is needed in the construction of an overage clause. It is often described as an 'anti embarrassment' clause.
- 3.14.6 Leases for less than a period of seven years are not considered as disposals as defined by Sec 123 of the Local Government Act 1972, as they are not covered by the Act there is no requirement to obtain best value, other than the broader fiduciary duty of officers. The standard approach is to adopt market value, depending on the specific circumstances. Short term agreements are regularly used to reflect occupational arrangements and can include leases or licenses.

Decision Making

- 3.15 The approach to decision making is set out in the Council's Constitution. However, for the purposes of this policy, the decision taker(s) must have a very clear picture of what they are been asked to do and the reasons they

are being asked to make that decision balanced with the risks of taking the decision. This needs to reflect the current financial position of the Council. It is very likely that any decision to sell land and property will have an exempt appendix. The reason for this is to allow full disclosure to the decision taker regarding the transaction as it will allow information that is commercially sensitive to the Council as vendor.

- 3.15.1 Although it is incumbent on the author of any report to set up a clear case for a transaction, it is incumbent on decision takers to ask questions if there are any elements of the decision that they are not clear on. This is particularly important when considering more complex property transactions. Where complex property transactions are presented, a workshop prior to decision making may be asked by, or offered to, decision takers so they can understand the mechanics of the transaction they are asked to decide on.
- 3.15.2 Reporting disposals to decision makers is also a key part of the process as this allows decision takers to understand and scrutinise progress.

Additional types of property transaction

Introduction

4.0 Buying and selling (Acquiring and Disposing) land or property as a concept is easy to understand and will be the vast majority of property transactions that the Council will deal with. However, there are additional transactions that, although using this simple concept, are more complex. Due to their complex nature, additional scrutiny, and consideration of these types of transactions are needed. These are considered in this section of the policy.

Procurement

4.1 It is common that the Council will want a third party to use assets for specific purpose, for example creating housing types to meet specific cohort needs i.e., extra care or accommodating a partner delivering services to the Council. The Council cannot deliver the intended outcomes by disposing of land or property alone.

4.1.1 In a procured land transaction, the asset would form part of the overall deal, but the service or outcome that is sought would be procured from the market. This could be done for a series of assets or on a case-by-case basis.

4.1.2 An assessment of the open market value of the asset is in comparison to the value that is being obtained by the approach would also need to be considered. It is possible that a transaction may need to be considered as a less than best consideration transaction and where a test of best value is used instead. Care needs to be undertaken when considering less than best consideration of transactions. Good evidence to support such a transaction would be, for example, reducing the cost of operation of the Council, by using the asset for the specific purpose.

- **If the Council wishes to control the outcome, it is a procurement.**

Lease as part of service provision by a third party

4.2 From time-to-time services may wish to permit third parties to occupy the Council's estate as part of delivery of a service. In an instance like this, the starting point is that the service will be charged market rent for the asset. This allows the full cost of the service to be identified. In this instance, the Asset Management service budget would be adjusted to reflect the change. This gives the service provider the option of making efficiencies in their space requirements. Should a different approach be taken work will need to be

undertaken to demonstrate value for the Council in adopting this approach. Other factors should as management, maintenance, and control of the asset should also be considered.

Options

- 4.3 An option is normally used when a potential purchaser wishes to have the option to buy an asset at a point in the future. This can be helpful if funding is not yet in place, or the Council needs to build confidence that it is seeking to take a particular course of action. An example of where options can be used effectively is acquisition in advance of CPO.
- 4.3.1 Normally a sum is paid by the prospective purchaser and in exchange they have the right to purchase the asset at an agreed price over a set period of time. The owner of the asset agrees not to transact with another party but otherwise continues to enjoy and use their assets normally.
- 4.3.2 A potential issue is that the price of the asset is agreed in the present, whereas the transaction would be in the future. Therefore, there is a risk that the price agreed may not reflect future market value for the asset, although mitigations can be built into the option subject to the parties agreeing it by way of an agreed formula for the final price.
- 4.3.3 Irrespective of the timing, prior to exercising the right to transact, the appropriate due diligence must be undertaken. It is possible that this due diligence work may affect the Council's view on price.
- 4.3.4 Paying a sum to secure an option can create an expectation to purchase an asset. Should the asset not be bought then any option consideration, dependent on advice from finance may need to be converted to revenue, if not already treated as this.
- 4.3.5 The principal protection that the purchaser has is to choose not to undertake the transaction.

Put - call options

- 4.4 A put-call option in a sale contract obliges the vendor or purchaser to enter into a sale or purchase if the option is triggered by the other party. The parameters to trigger the option are written into the contract. There will be a set period to exercise the option.
- 4.4.1 A put call option is used to transfer risk between the buyer and seller. This approach has inherent risks and therefore should a put call option be

Proposed, decision takers should understand the best, medium, and worst-case scenarios for the Council as part of the decision-making process, alongside the opportunities that are created by entering into this type of transaction. Careful advice from the finance directorate of the Council also needs to be considered by decision takers as to the implications of these scenarios set in the context of the current and potential future financial position of the Council.

4.4.2 The specialist nature of put call options means that the Council will in all likelihood need specialist surveying advice to inform its decision.

- **A put call option creates a future liability for the Council and therefore the Finance team needs to carefully understand the transaction and how to reflect this in the accounts.**
- **Entering this type of transaction would require detailed property, legal and financial advice and would also have to consider the implications of the transaction in the context of the Council's financial position.**

Sale and lease back

4.5 Sale and lease back are common approaches in the property industry. Typically, the property owner leases land or property to an investor who builds an asset and then leases it back to the owner. This in effect mixes a disposal of land or property with an acquisition of an asset in a back-to-back agreement.

4.5.1 It is an effective way of enabling development whilst also protecting the investment, which is needed to progress the development. Effectively, this approach creates an asset-backed annuity. Care is needed to understand the inherent liabilities that are created when entering this type of transaction.

Public Finance initiative (PFI)

4.6 This was a common type of transaction in the UK typically associated with asset portfolios. Usually, the asset owner leases the asset to a provider who then improves the asset and leases it back to the owner, for a set of years, who then pays the provider on an ongoing basis. The PFI provider maintains the asset as part of the transaction.

4.6.1 This can be a useful approach for asset owners who lack capital to invest in their assets, although they do have to pay for the arrangement with ongoing revenue payments for the duration of the agreement. PFI also tends to be

restrictive in terms of changes to the asset, which due to the complexity of the transaction can be expensive to deliver. It also creates a useful financial instrument for investors, in that the investment is protected, and the return to the investor is guaranteed.

- 4.6.2 The Council currently has a number of schools on a PFI contract coming to an end in 2031. For the purposes of this policy it is not anticipated that the Council at this point in time would enter into a PFI arrangement in the future and as a result entering into a PFI is outside the parameters of this policy and would require detailed property, legal and financial advice and would also have to consider the implications of the transaction in the context of the Council's financial position.

Lease Wrap

- 4.7 A lease wrap, a common property term, refers to a series of leases called headleases, leases and sub leases, which are designed to protect the interests of an investor. This is usually done to pump investment in an area where a Council will use its covenant to secure investment. This is a type of sale and lease back. The Council in this example would be responsible for collecting rents from any tenants in the asset, but also responsible for paying the investor their rent. The asset owner takes the risk of any shortfall between the rent out and the rent in, insulating the investor. Typically rent to the investor will be indexed within parameters (known as a cap and collar) whereas rent to the owner will be typically agreed at market value which over the period of the arrangement may act in different ways.

- **Entering this type of transaction would require detailed property, legal and financial advice and would also have to consider the implications of the transaction in the context of the Council's financial position.**

Joint Ventures

- 4.8 Joint Ventures (JV) are commercial agreements between two or more parties which otherwise operate independently of each other. These are designed to bring skills, funding, or other benefits to the Council. As part of a JV, assets may be transacted. Specialist advice on the structure of the agreement would be needed to understand how land and property would be transacted.

Covenants

Covenants on the sale of property are a means of a vendor trying to control the future use of property, either for the benefit of adjoining land or owners. The enforceability of covenants is the subject of significant case law and is ultimately a matter for the Upper Tribunal (Lands Chamber). Imposing covenants is no longer the favoured way of controlling uses, but the Council still needs to consider historic covenants on its land, or land it acquired.