



# **The Management of Asset, Property and Land Rules**

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## 1 INTRODUCTION

- 1.1 The Council's holdings of Land and Property (the Built Environment) are a Corporate resource. Directors will keep these holdings under review as part of the Property Review Process managed by the Chief Operating Officer.
- 1.2 Asset Portfolio management and its valuation affect the most important decisions a Council makes because the Council is tasked to ensure that the Built Environment supports the delivery and development of its Services and Localism obligations. The Council's reputation is also important and should be safeguarded from any suggestion of dishonesty, corruption or failure to meet legal and fiduciary responsibilities.
- 1.3 Effective Asset Portfolio management maintains the condition of Assets within the Built Environment, reducing the risk of accidents, enhancing compliance with Health and Safety Regulations, and reducing the risk of Manslaughter actions against the Council.
- 1.4 Any change to the Asset Portfolio must comply with the Management of Asset, Property and Land Rules, Council Policy, Constitution and English law. It is a disciplinary offence to fail to comply with the Management of Asset, Property and Land Rules when undertaking Asset Portfolio Development or Maintenance on behalf of the Council. Council employees, Contractors and Service Providers contracted to the Council have a duty to report breaches of these Rules to an appropriate senior manager and the Chief Operating Officer.
- 1.5 All Asset Portfolio Development activities must be undertaken with regard to the high standards of probity and professionalism set out within the Royal Institution of Chartered Surveyors (RICS) Red Book. The Council has a commitment to transparency and it is important that the Measurement and Valuation processes applied to Asset, Property and Land Development are as transparent and open as possible.

## 2 APPLICATION

- 2.1 The Management of Asset, Property and Land Rules provide the governance structure within which the Council may acquire, lease, act as landlord, licence, develop, appropriate, change use of, or dispose of Assets within its Asset Portfolio.
- 2.2 The Council may delegate responsibility to Authorised Service Providers to manage the Council's Asset portfolio on its behalf, within the boundaries set by these Rules.
- 2.3 The aims of these rules are to:
  - ensure Best Consideration is achieved on the disposal of council assets (unless a Less Than Best Transaction is approved).
  - propriety in spending public money (such as for acquisitions)
  - enable the development of a balanced Asset Portfolio which is fit for purpose when applied to the delivery of Council services
  - enable the Built Environment to be maintained and developed in a manner which enhances Social Value;

- ensure that the Council is not exposed to unnecessary risk and likelihood of challenge arising from non-compliant Asset Portfolio activity;
  - ensure compliance with English law and the current standards and methods of Asset Portfolio measurement and valuation and as defined within the RICS Red Book; and
  - enable Council, authorised Third Party Providers and Third Sector Services to be delivered effectively and efficiently across the Borough
- 2.4 The Assets, Regeneration and Growth Committee may, from time to time, recommend to the Constitution, Ethics and Probity Committee and Council that these rules be amended.
- 2.5 Reference must be made to any approved Scheme of Delegation with regard to identifying any manager with the right to initiate change to the Asset Portfolio as delegated by their Director. Schemes of Delegation will be maintained by the relevant Director and will be published on the Council's website.
- 2.6 Reference must be made to the Council Corporate Plan, which informs the Strategic Asset Management Plan and is delivered through the Annual Work Plan.
- 2.7 The Council may delegate responsibility to Authorised Service Providers to develop and deliver the Strategic Asset Management Plan and Annual Work Plan through the adoption of an Approved Management Structure.
- 2.8 The Strategic Asset Management Plan will govern decisions on the future direction and development of the Council's Built Environment.
- 2.9 An Annual Work Plan will govern decisions on whether to:
- i. Dispose of an Asset for purposes in accordance with Corporate Plan objectives, or;
  - ii. Lease, licence or rent an asset, or;
  - iii. Appropriate an asset
- 2.10 When a school takes Academy status they are granted a 125 year lease of the land and buildings at a notional rent. While the council retain the freehold, the school is free to manage, maintain, and licence as it sees fit. It cannot however dispose of its interest. The Academies Act 2010 has a number of qualifications and conditions, but broadly speaking apart from disposal, or granting an interest in the land that will require our consent, they are free to use and manage as they choose. Any ancillary accommodation must be wholly or mainly used by the school to transfer under the Academies Act 2010.
- 2.11 All Qualified Officers who undertake Asset Portfolio maintenance and development must do so in a manner which avoids any potential conflict of interest, is consistent with procedures set out in the Staff Handbook, and complies with the standards defined within the RICS Red Book and other approved Professional Bodies.
- 2.12 The Chief Operating Officer shall maintain, issue and publish the Management of Asset, Property and Land Rules, the Strategic Asset Management Plan and the Annual Work Plan.

- 2.13 Unless the context otherwise requires, terms used in these Management of Asset, Property and Land Rules shall have the meanings ascribed to them as set out in the Definitions section 13 of these rules.
- 2.14 The Management of Asset, Property and Land Rules are not subject to Contract Procedure Rules or the Procurement Code of Practice except when maintenance or alteration works and related services are procured.
- 2.15 Reference must be made to the Management of Assets, Property and Land Procedures for detailed explanation of the processes associated with these Rules.
- 2.16 In the event of reporting the results of public advertising of the disposal of Public Open Space under Section 123 (2) (~~to~~ [of the Local Government Act 1972](#)), if the relevant Director is not able to comply with the normal reporting cycle, and needs to proceed with urgency, then the Director must inform Ward Members of the results of the advertising so that individual Wards are able to consider and make representation to the Director if desired.

### 3 SCOPE

- 3.1 The Management of Asset, Property and Land Rules apply to all changes to the Asset Portfolio owned by or leased to the Council.
- 3.2 Where the Council is entering into a contract as an ~~Agent~~ [agent](#) or in collaboration with another public body or government department, these Rules apply only in so far as they are consistent with the requirements of the body concerned. Where the Council is acting as Principal, the Management of Asset, Property and Land Rules will take precedence.
- 3.3 The procedures associated with these Rules are as detailed in the Management of Asset, Property and Land Procedures.

### 4 REGULATION & LEGISLATION

- 4.1 Any significant changes to existing legislation or measurement standards and methods which impact upon the Asset Portfolio will be reflected in changes to the Annual Work Plan, Strategic Asset Management Plan and the Corporate Plan.
- 4.2 The Management of Asset, Property and Land Rules will be reviewed and updated by the Authority's Estates Services with any significant changes referred to the Constitution, Ethics and Probity Committee in accordance with paragraph 2.12 above.

### 5 ROLES AND RESPONSIBILITIES

Directors of the Council who deliver services from Authority owned or leased buildings are responsible and accountable for the following;

- 5.1 ensuring compliance with English law, Council Policy, the Management of Asset, Property and Land Rules, and the Regulatory Framework defined by the Royal Institution of Chartered Surveyors;
- 5.2 ensuring that Annual Asset valuations are carried out and recorded based upon CIPFA rules;

- 5.3 establishing and maintaining a system of Asset Life Cycle Management, based upon a published register of Council Assets and rolling 5 year Condition Surveys;
- 5.4 identifying, evaluating, recording and appropriately mitigating risk in connection with the delivery of Services through the Council's Asset Portfolio;
- 5.5 maintaining a Scheme of Delegation in accordance with Constitutional requirements;
- 5.6 taking immediate action in the event of a breach of the Management of Asset, Property and Land Rules within their Delivery Unit;
- 5.7 ensuring that proper records are kept of all changes to the Council Asset Portfolio, which may be inspected by a Member of the Council and kept for the period specified in the Council's Records Retention and Disposal Policy;
- 5.8 establishing and administering a Corporate infrastructure for the management of Health and Safety;
- 5.9 Items 5.1 to 5.8 above are to be delivered in conjunction with the Authority's Estates Services.

## 6 ASSET VALUE CONSIDERATION

- 6.1 Assets will be valued using measurements and methods defined within the RICS Red Book.
- 6.2 Asset valuations may only be made by Council Officers or Third Party Agents qualified to do so through membership of RICS, and as a registered Valuer.
- 6.3 Asset acquisition, development and disposal decisions will be taken upon the basis of Best Consideration applicable at the time of the decision, rather than highest price. A Less than Best Consideration offer may be recommended to Council under special circumstances, following approval by the Secretary of State ~~for~~ [for Communities and Local Government](#) if it falls outside the scope of the General [Disposal Consent 2003](#) ~~development Order~~.

## 7 AUTHORISATION

- 7.1 Any Asset acquisition or disposal included in the Annual Work Plan, as approved by Assets Regeneration and Growth Committee, is deemed as Authorised irrespective of value. Any Asset acquisition or disposal which has not been Authorised as set out in 7.1 must be Authorised in accordance with Delegated Powers as shown in Table A in Appendix 1 of these Management of Asset, Property and Land Rules.
- 7.2 The Chief Operating Officer or designated Officer authorised under a Scheme of Delegation may seek a change of service use decision of a Council Asset from the Assets, Regeneration and Growth Committee

## 8 ASSET ACQUISITION, VARIATION AND DISPOSAL METHOD

- 8.1 The method by which an Asset is acquired or disposed of should be based upon market testing to ensure that Best Consideration is obtained wherever possible.

- 8.2 In the event that market testing is not appropriate then an Independent Valuation must be obtained, provided either by a RICS qualified valuer or the District Valuation Service.
- 8.3 The method employed when acquiring or disposing of an Asset must be consistent with those prescribed within the RICS Red Book in order to safeguard Best Consideration.
- 8.4 The Council must apply appropriate Planning and Building Control rules when changing the use of an Asset.
- 8.5 Any variation to a decision taken by Assets, Regeneration and Growth Committee needs to be processed in accordance with the scheme of delegation detailed in Appendix 1.

## 9 INFORMATION GOVERNANCE

- 9.1 When acquiring or disposing of Council Assets the Senior Responsible Council Officer or Third Party Agent must ensure due diligence checks are carried out to provide sufficient guarantees that the seller or buyer technical and organisational security measures for handling and protection of information and data are appropriate, suitable and lawful. This is a requirement under Principle 7 of the Data Protection Act.
- 9.2 Evidence of these checks, copies of policies and guarantees provided by the seller or buyer must be retained by the Delivery Unit responsible for management of the Asset and be regularly reviewed throughout the life cycle of the Asset.

## 10 ACCEPTANCE

- 10.1 Acceptance of Asset acquisition or disposal in all cases is subject to:
  - a. Evidence of Best Consideration;
  - b. Evidence of appropriate consultation when required;
  - c. Budgetary provision;
  - d. A compliant Asset Management process; and
  - e. Confirmation of acceptable financial means of a buyer when considering Asset disposal.
- 10.2 Powers are delegated to Officers to accept the outcome of Asset acquisition or Disposal recommendations subject to [TableABLE B](#) in Appendix 2.

## 11 CONTRACT SIGNING and SEALING

- 11.1 Every contract, deed or contract novation must be in a form approved by the Monitoring Officer (on consultation with HB [Public Law](#)) or delegated Officer.

## 12 WAIVERS

- 12.1 In the event that the application of these rules prevents or inhibits the delivery or continuity of service, Directors or Assistant Directors, Lead Commissioners and Heads of Service may

apply for a waiver. All applications for a waiver of these Land Rules must be submitted to Assets Regeneration and Growth Committee specifically identifying the reason for which a waiver is sought, including justification and risk.

12.2 Inadequate planning and organisation of resources does not constitute an acceptable justification for a waiver.

12.4 Any waiver can only be granted for a maximum period of 12 months.

## 13 DEFINITIONS

13.1 **“Acceptance”** is the authorisation to conclude an Asset acquisition, change or disposal process;

13.2 **“Acquisition”** is the process by which the Council adds Assets to its Asset Portfolio;

13.3 **“Third party Agent”** is a qualified person contracted to act on behalf of the Council;

13.4 **“Appropriation”** - The transfer of land from one service use to another;

13.5 **“Asset Life Cycle Management”** is the overall process by which a Council Asset is managed, from acquisition through ongoing maintenance and alteration, through to addressing dilapidations and disposal;

~~13.6~~ **“Annual Work Plan”** is the annual, detailed plan upon which Asset Portfolio actions are programmed;

~~13.7~~ **“Approved Officer”** means any Director, Assistant Director, Lead Commissioner or Head of Service in accordance with the Scheme of Delegation who has responsibility for client management of the Estates function. all contracts tendered and let by their respective area of responsibility including contract monitoring and management once contract is in place.

~~13.6~~

~~13.7~~13.8 **“Authorisation”** is the approval required to enable an Asset acquisition, change or disposal process to commence;

~~13.8~~13.9 **“Best Consideration”** is the best value that is reasonable obtained for an Asset. Under the Local Government Act 2000;.

~~13.9~~13.10 **“Less Than Best Transaction”** is where Councils may dispose of land at under best value where this is done to secure the promotion or improvement of the economic, social or environmental well-being of the area;

~~13.10~~13.11 **“Budget”** is the annually agreed budget and supporting plans and strategies for each Delivery;

~~13.11~~13.12 **“Built Environment”** is the buildings and other human made space in which people live, work and use for recreation on a day to day basis;

~~13.12~~13.13 **“Condition Surveys”** are detailed reports of the physical condition of an Asset within the Asset Portfolio of the Council;



- ~~13.13~~13.14 **“Corporate Plan”** is the plan which set out the Council’s main strategic challenges and priorities on an annual basis, and the way in which they will be tackled;
- 13.1413.15 **“Disposal”** is the process by which a Council Asset is sold or leased;
- 13.1513.16 **“Strategic Asset Management Plan”** is the strategic planning document designed to develop the Asset Portfolio to achieve the Corporate Objectives of the Council;
- 13.1613.17 **“Lease”** is a legal document which outlines the terms by which the Council agrees to exclusively rent land or property either to or from another Third Party for a specified time;
- 13.1713.18 **“Licence”** is a right to occupy land or a property for a defined period of time;
- 13.1813.19 **“Market Testing”** is the process by which Assets for disposal are offered in the market in order to attract competitive bids to secure best consideration;
- 13.1913.20 **“Monitoring Officer”** is defined within the Constitution as the Chief Officer of the Council, or delegated officer;
- 13.2013.21 **“Asset Portfolio”** is the register of Council Assets (Land and Buildings) wholly or partially owned, or leased by the Council;
- 13.2113.22 **“Red Book”** is the Regulatory Framework of Standards and Best Practice Methods and Processes employed by Members of the Royal Institution of Chartered Surveyors when engaged in Asset Life Cycle Management and Asset Valuation;
- 13.2213.23 **“Royal Institution of Chartered Surveyors” (RICS)** is the Regulatory Body charged with establishing a Framework of Standards, Methods and Processes which are compliant with English law and represent Best Practice within the Asset Management profession;
- ~~13.23~~ **“Estates Senior Responsible Officer (SRO)”** is the senior responsible officer within the Commissioning Group, who is responsible for Estates Client Management.

14 APPENDIX 1 - TABLE A – Authorisation Delegated Powers<sup>i</sup>

	Authorisation Level <sup>ii</sup>	Acquisitions	Lease in	Lease out for Rent or Consideration	Licences, Easements and Consents	Compensations, Settlements and Covenants	Disposals
<b>A</b>	Less than £10,000	<del>Estates SRO sign-off with summary DPR</del>	<del>Estates SRO sign-off with summary DPR</del>	<del>Estates SRO sign-off with summary DPR</del>	<del>Estates SRO sign-off with summary DPR</del>	<del>Estates SRO sign-off with summary DPR</del>	Full DPR – Director or Deputy Chief Operating Officer (unless a Less Than Best Transaction, which must be reported to Assets, Regeneration and Growth Committee (ARG))
<b>BA</b>	<del>£10,001 to</del> Less than £25,000	<del>Summary DPR – Assistant Director</del> <u>Approved Officer</u>	<del>Summary DPR – Assistant Director</del> <u>Approved Officer</u>	<del>Summary DPR – Assistant Director</del> <u>Approved Officer</u>	<del>Summary DPR – Assistant Director</del> <u>Approved Officer</u>	<del>Summary DPR – Assistant Director</del> <u>Approved Officer</u>	
<b>C</b>	£25,001 to £100,000	Full DPR – Director or Deputy Chief Operating Officer in consultation with the Chairman of the appropriate Committee	Full DPR – Director or Deputy Chief Operating Officer in consultation with the Chairman of the appropriate Committee	Full DPR – Director or Deputy Chief Operating Officer in consultation with the Chairman of the appropriate Committee	Summary DPR – Director or Deputy Chief Operating Officer in consultation with the Chairman of the appropriate Committee	Summary DPR – Director or Deputy Chief Operating Officer in consultation with the Chairman of the appropriate Committee	

<sup>i</sup> This Table applies to Land and Building activity NOT included in the approved Annual Work Plan

<sup>ii</sup> These values may be either Capital or Annualised Income/Expenditure

D	More than £100,001	Report to Assets Regeneration and Growth Committee (ARG)	Report to Assets Regeneration and Growth Committee (ARG)	Report to Assets Regeneration and Growth Committee (ARG)	Report to Assets Regeneration and Growth Committee (ARG)	Report to Assets Regeneration and Growth Committee (ARG)	Report to Assets Regeneration and Growth Committee (ARG)
E	'Non-Value' Variations post Authorisation	Delegated Powers Report Approval	Delegated Powers Report Approval	Delegated Powers Report Approval	Delegated Powers Report Approval	Delegated Powers Report Approval	Summary DPR – Director or Deputy Chief Operating Officer  Report to next Asset Regeneration and Growth Committee (ARG)

**APPENDIX 2 - TABLE B – Acceptance Delegated Powers (Acquisitions and Disposals)**

	Authorisation Level	Acceptance meets Authorisation Criteria and is Compliant	Acceptance does not meet Authorisation Criteria, or is not Compliant
<b>A</b>	Less than £10,000	<del>Estates SRO</del> <u>Approved Officer</u> sign off with summary DPR	Summary DPR –Assistant Director/Deputy Chief Operating Officer
<b>B</b>	£10,001 to £25,000	Summary DPR -Director/Chief Operating Officer	Summary DPR – Director/Chief Operating Officer
<b>C</b>	£25,001 to £100,000	Summary DPR – Chief Operating Officer note to Assets, Regeneration and Growth Committee	Full DPR Chief Operating Officer
<b>D</b>	More than £100,000	Assets Regeneration and Growth Committee Report	Assets Regeneration and Growth Committee Report