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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, 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 and propriety in the spending of public money and the maximisation or disposal of Council Assets;
 - 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; and
 - 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;
 - enable Council, authorised Third Party Providers and Third Sector Services to be delivered effectively and efficiently across the Borough
- 2.4 The Cabinet Resources 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 Asset Management Strategy and is delivered through the Asset Management Plan
- 2.7 The Council may delegate responsibility to Authorised Service Providers to develop and deliver the Asset Management Strategy and Asset Management Plan through the adoption of an Approved Management Structure
- 2.8 The Asset Management Strategy will govern decisions on the future direction and development of the Council's Built Environment.
- 2.9 An Asset Management Plan will govern decisions on whether to:
- i. Retain an Asset for purposes in accordance with Corporate Plan objectives, or;
 - ii. Dispose of an asset, or;
 - iii. Lease, licence or rent an asset, or;
 - iv. Change the use of 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 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.
- 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 Asset Management Strategy and the Asset Management 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.

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 or in collaboration with another public body or government department, these Management of Asset, Property and Land 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.

4 REGULATION & LEGISLATION

- 4.1 Corporate Estates is responsible for ensuring Council awareness and compliance with the requirements of all relevant legislation and professional standards.
- 4.2 Any significant changes to existing legislation or measurement standards and methods which impact upon the Asset Portfolio will be reflected in changes to the Asset Management Plan, Asset Management Strategy and the Corporate Plan.
- 4.3 The Management of Asset, Property and Land Rules will be reviewed and updated by Corporate Estates 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 are accountable for the delivery of the Asset Management Plan in their respective Delivery Units. Their duties in relation to all Asset Management activities are to:

- 5.1 ensure 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 ensure that Annual Asset valuations are carried out and recorded based upon CIPFA rules;
- 5.3 establish and maintain a system of Asset Life Cycle Management, based upon a published register of Council Assets and rolling 5 year Condition Surveys;

- 5.4 identify, evaluate, record and appropriately mitigate risk in connection with the delivery of Services through the Council's Asset Portfolio;
- 5.5 maintain a Scheme of Delegation in accordance with Constitutional requirements;
- 5.6 take immediate action in the event of a breach of the Management of Asset, Property and Land Rules within their Delivery Unit;
- 5.7 ensure 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

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;
- 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 best price;
- 6.4 A less than Best Consideration offer may be recommended to Council under special circumstances, following approval by the Secretary of State for Local Government if required

7 AUTHORISATION

- 7.1 Any Asset acquisition or disposal included in the Asset Management Plan, as approved by Cabinet Resources Committee, is deemed as Authorised irrespective of value
- 7.2 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
- 7.3 The Chief Operating Officer or designated Officer authorised under a Scheme of Delegation may seek a change of use decision of a Council Asset from the Cabinet Resources 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

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 TABLE 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 Law) or delegated Officer

12 WAIVERS

- 12.1 In the event of advertising the disposal of Public Space under Section 123(b), if the relevant Director is not able to report such Asset disposal within the normal reporting cycle, and

needs to proceed with urgency, then the Director must inform Council Members of the intention so that individual Wards are able to consider and make representation to the Director if desired

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 **“Agent”** is a qualified person contracted to act on behalf of the Council
- 13.4 **“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
- 13.5 **“Asset Management Plan”** is the annual, detailed plan upon which Asset Portfolio actions are programmed
- 13.6 **“Authorisation”** is the approval required to enable an Asset acquisition, change or disposal process to commence
- 13.7 **“Best Consideration”** is the best value that is reasonable obtained for an Asset. Under the Local Government Act 2000 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 provided that the under value does not exceed £2,000,000
- 13.8 **“Budget”** is the annually agreed budget and supporting plans and strategies for each Delivery
- 13.9 **“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
- 13.10 **“Condition Surveys”** are detailed reports of the physical condition of an Asset within the Asset Portfolio of the Council
- 13.11 **“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
- 13.12 **“Disposal”** is the process by which a Council Asset is sold for Best Consideration and removed from the Asset Portfolio
- 13.13 **“Asset Management Strategy”** is the strategic planning document designed to develop the Asset Portfolio to achieve the Corporate Objectives of the Council
- 13.14 **“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
- 13.15 **“Licence”** is a right to occupy land or a property for a defined period of time

- 13.16 **“Market Testing”** is the process by which Assets for disposal are advertised in order to attract and retain interest from the Asset market in order to achieve Best Consideration during disposal
- 13.17 **“Monitoring Officer”** is defined within the Constitution as the Chief Officer of the Council, or delegated officer
- 13.18 **“Asset Portfolio”** is the register of Council Assets (Land and Buildings) wholly or partially owned, or leased by the Council
- 13.19 **“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
- 13.20 **“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

14 **APPENDIX 1 - TABLE A – Authorisation Delegated Powersⁱ**

	Authorisation Levelⁱⁱ	Acquisitions	Lease in	Lease out for Rent or Consideration	Licences, Easements and Consents	Compensations, Settlements and Covenants	Disposals
A	Less than £5000	Summary DPR -Lead Commissioner/Chief Operating Officer	Summary DPR -Lead Commissioner/Chief Operating Officer	Summary DPR -Lead Commissioner/Chief Operating Officer	Summary DPR -Lead Commissioner/Chief Operating Officer	Summary DPR -Lead Commissioner/Chief Operating Officer	Summary DPR – Cabinet Member – note to CRC
B	£5001 to £10000	Summary DPR –Asst Director/Chief Operating Officer	Summary DPR –Asst Director/Chief Operating Officer	Summary DPR –Asst Director/Chief Operating Officer	Summary DPR –Asst Director/Chief Operating Officer	Summary DPR –Asst Director/Chief Operating Officer	
C	£10001 to £25000	Summary DPR - Director/Chief Operating Officer	Summary DPR - Director/Chief Operating Officer	Summary DPR - Director/Chief Operating Officer	Summary DPR - Director/Chief Operating Officer	Summary DPR - Director/Chief Operating Officer	
D	£25001 to £100000	Full DPR – Cabinet Member – note to CRC	Full DPR – Cabinet Member – note to CRC	Full DPR – Cabinet Member – note to CRC	Summary DPR – Cabinet Member – note to CRC	Summary DPR – Cabinet Member – note to CRC	
E	More than £100000	CRC Report	CRC Report	CRC Report	CRC Report	CRC Report	CRC Report
F	Variations post Authorisation	Delegated Powers Report Approval needed at the NEXT highest threshold above the original decision					

ⁱ This Table applies to Land and Building activity NOT included in the approved Estate Management Plan

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

15 **APPENDIX 2 - TABLE B – Acceptance Delegated Powers**

	Authorisation Level	Acceptance meets Authorisation Criteria and is Compliant	Acceptance does not meet Authorisation Criteria, or is not Compliant
A	Less than £5000	Summary DPR -Lead Commissioner/Chief Operating Officer	Summary DPR –Asst Director/Chief Operating Officer
B	£5001 to £10000	Summary DPR –Asst Director/Chief Operating Officer	Summary DPR - Director/Chief Operating Officer
C	£10001 to £25000	Summary DPR - Director/Chief Operating Officer	Summary DPR – Cabinet Member
D	£25001 to £100000	Summary DPR – Cabinet Member – note to CRC	CRC Report
E	More than £100000	CRC Report	CRC Report
F	Not Value dependant	CRC Report	CRC Report