

APPENDIX 2 (Change Table)

Land and Property Protocols

Existing Ref	Existing	Reason for Proposed Amendment	Proposed Amendment
N/A	New section to L&PP	For ease of reference.	Page 1 Inclusion of a Contents Page.
Page 1	General Protocol	Update	1 General Protocol Includes reference to the Council's new Community Asset Transfer Policy amended in March 2019.
N/A	New section to L&PP	Officer guidance.	2 Corporate Property Board New Section including the main Terms of Reference.
1.0	General Management Principles	Update	3 General management Principles Updated to reflect the Council's Building Maintenance Policy and Oldham ICO.
3.1	<p>Surplus Property</p> <p>All land and property, whether held for service use or as part of the investment portfolio, will be subject to regular review.</p> <p>The Corporate Landlord will work with Directorates (via DMT's) to ensure earliest possible indications of potential change of direction in service delivery and implications for property needs.</p>	To update the protocol in light of the changes resulting from approval of the Medium Term Property Strategy in August 2018 and the Office Accommodation Strategy.	<p>5.1 Background Matters / General Principles</p> <p>All land and property, whether held for Service Delivery (Direct or Indirect), Income Generation, Regeneration, Co-operative Use or as part of the Surplus portfolio, will be subject to regular review in accordance with individual Asset Management Plans and the MTPS.</p> <p>The Corporate Landlord will work with Directorates (via DMT's) to ensure that any potential change of direction in service delivery which has an implication in terms of the Council's future property requirements will be advised at the earliest opportunity.</p> <p>Any proposed changes will also be in accordance with the</p>

			Council's Accommodation Strategy.
3.2	<p>Disposal of Land (Best Consideration)</p> <p>The Council's Informal tender process will be subject to review as appropriate by the Head of Procurement and Internal Audit. For the avoidance of doubt, any bids received after the closing date will not be considered.</p> <p>Members, officers and those acting on behalf of the Council bidding to purchase Council land and property in any capacity must explicitly declare their position within 5 working days of the closing date of receipt of offers to purchase. In such cases, the asset may be referred to public auction.</p>	To provide clarity to both Officers and Members in respect of the Disposal Protocol and Methods of Sale.	<p>5.2 Disposal of Land (Best Consideration)</p> <p>The method and terms of sale will be subject to professional advice on a case by case basis having consideration of the following, together with paragraph 5.3 and the Disposals Protocol and Methods of Sale at Appendix B.</p> <p>All disposals and marketing exercises must be carried out observing the principles of transparency, proportionality and equal treatment.</p> <p>Techniques can be used to introduce an element of control and these include incorporating options / buy back provisions for the Council should development not be carried out. Buy back provisions should not include repurchasing at less than market value or on any terms which imply a penalty is being imposed for the development not being carried out or completed.</p> <p>Heads of Terms should be discussed with Legal Services prior to release.</p> <p>Provisions within an agreement can be included to give the Council the ability to approve (as landowner not as Local Planning Authority) planning applications before they are submitted.</p> <p>The Council is not able to enter into development agreements imposing obligations on buyers / developers to develop sites / carry out works or impose conditions as to how or when a</p>

			<p>development is carried out unless it has been properly procured.</p> <p>The Council can however require that developments are carried out in accordance with planning requirements and any permissions required / obtained, but this cannot include requiring a planning permission to be implemented – it can only condition what happens if a planning permission is implemented [including requiring (where appropriate and reasonable) that once the development is commenced by the carrying out of a material operation then in the interests of the amenity of neighbouring properties the development is brought to practical completion with a specified period (such period to be reasonable in all the circumstances) from the date of commencement (bearing in mind that any obligations relating to the development will be nonetheless difficult for the Council to enforce from a practical point of view save through the exercise or threat of exercise by the Council of a buy back option)].</p> <p>The preparation of documents for marketing and any evaluation / scoring mechanisms used must be agreed in advance with Legal Services and (inappropriate cases) Procurement.</p> <p>Soft market testing can be conducted where appropriate with advice and support from Legal Services / Procurement.</p> <p>Communication with potential bidders and buyers must be clear, consistent and create</p>
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3.4	Freehold & Leasehold Disposal	Update	<p>5.5 Freehold & Leasehold Disposal Inclusion of :-</p> <p>The most recent House of Commons Briefing Paper relating to Leasehold and Commonhold Reform (October 2019), outlines amongst other things the Government's intention to legislate and prohibit the creation of new long leasehold tenancies on houses. Consequently, where the disposal of land is intended for residential development purposes, then the Council is to sell its' freehold interest where it currently holds such an interest.</p>

<p>3.5</p>	<p>Lettings</p> <p>Under this protocol, the terms of any proposed letting will be considered by reference to the asset category;</p> <p>a) Investment Portfolio (including all surplus assets, and land and property held for Development/ Regeneration purposes) – the lettings will be based on commercial open market terms, at full market value provided that the Director of Economy may in consultation the Director of Finance and the Director of Legal Services authorise a short term let at below-market value where this has commercial justification, for example, to cover running costs prior to redevelopment.</p> <p>b) Operational Assets:</p> <ul style="list-style-type: none"> • Private sector tenant – commercial open market terms, full market value • Public sector tenant/commissioning partner delivering public sector services – lettings will be at cost • Community sector tenant – terms of letting may range from at cost to free (dependent on structure of organisation, and with reference to the Council’s Social Value Framework) <p>Concessionary lettings within the Investment Portfolio are not permitted and should Directorates wish to support such an arrangement it will be required to ‘sponsor’/ fund the concessionary rent through alternative funding to the level of full market rent. Flexibility</p>	<p>To update the protocol in light of the changes resulting from approval of the Medium Term Property Strategy in August 2018.</p>	<p>5.6 Lettings</p> <p>Under this protocol, the terms of any proposed letting will be considered by reference to the asset category within the MTPS:</p> <p>a) Income Generation & Regeneration Estates:</p> <p>The lettings will be based on commercial open market terms at full market value provided that the Director of Economy may in consultation the Director of Finance and the Director of Legal Services authorise a short term let at below market value where this has commercial justification, for example, to cover running costs prior to redevelopment and assets fall within the Regeneration Estate.</p> <p>Concessionary lettings within the Income Generation Estate are not permitted and should Directorates wish to support such an arrangement it will be required to ‘sponsor’/ fund the concessionary rent through alternative funding to the level of full market rent. Flexibility will be provided in respect of schemes /initiatives specifically directed at supporting businesses, provided that a full business case is in place and the views of the Director of Economy are sought regarding such schemes.</p> <p>Legal advice will be required before any concessionary rent is agreed to ensure the Council is not in breach of State Aid Regulations.</p> <p>b) Service Delivery (Direct & Indirect) Estates: Lettings to public sector tenants</p>
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	<p>will be provided in respect of schemes /initiatives specifically directed at supporting businesses, provided that a full business case is in place and the views of the Director of Economy are sought regarding such schemes.</p> <p>With regard to commercial lettings, tenants should not commence occupation of premises in advance of either legal completion of lease or having sufficient legal measures in place to protect the Council's interest.</p> <p>Rent collection and treatment of arrears should be in accordance with the Council's Protocol.</p>		<p>or commissioning partners delivering public sector services will be at cost.</p> <p>c) Co-operative Estate: Letting to community sector tenants may range from "at cost" to an agreed discounted fee ie potential a peppercorn rent dependent on the structure of the organisation, its' relevance to the Council's Social Value Framework and how it benefits the local community.</p> <p>Legal advice should be sought before any concessionary rent is agreed to ensure the Council is not in breach of State Aid Regulations.</p> <p>d) Surplus Estate: Lettings will be based on commercial open market terms at full market value provided that the Director of Economy may in consultation the Director of Finance and the Director of Legal Services authorise a short term let at below market value where this is beneficial to the longer term goal of disposing of the asset.</p> <p>Tenants should not commence occupation of premises in advance of either legal completion of lease or having sufficient legal measures in place to protect the Council's interest.</p> <p>Rent collection and treatment of arrears should be in accordance with the Council's Protocol for debt recovery.</p>
N/A	New section to L&PP	Update	<p>5.7 Community Transfer</p> <p>Reference and web-link to the Council's revised Community Asset Transfer Policy.</p>

N/A	New section to L&PP	<p>To reflect the role of the Corporate Property Board and the additional delegated authorities conferred on Officers (as approved at Cabinet on the 18th December 2017) in order to progress the acquisition of new investments for the purposes of generating a sustainable future income to support the Council's mainstream service delivery.</p> <p>This further supplements the Income Generation (New) Estate within the MTPS.</p>	<p>6 Commercial Property Investment Strategy</p> <p>All land and property acquisitions for commercial investment will be reported to the Corporate Property Board, specifically those sought to generate a sustainable future income stream to support the Council's mainstream service delivery as part of its' Commercial Property Investment Strategy.</p> <p>A quorum of at least 3 members of CPB will be required to consider outline business cases of investment opportunities, a minimum being one Elected Member, the Director of Finance and the Deputy Chief Executive People and Place or the Deputy Chief Executive Corporate and Commercial Services. If the outline business case is approved, CPB will authorise the Director of Economy to complete the purchase.</p> <p>The Director of Economy has delegated authority to complete property acquisitions up to a value of £10m subject to the prior recommendations of the CPB.</p> <p>Cabinet shall approve all acquisitions in excess of £10m unless there is a need to make an emergency decision in which case the emergency provisions within this Protocol will take effect.</p> <p>The Directors of Finance and Economy also have delegated authority to secure additional specialist external advisors as considered appropriate.</p>
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3.7.2	<p>Member Notification</p> <p>The appropriate Cabinet Member and Ward Members will be notified in advance of all property transactions, excluding Residential Right to Buy or Leasehold Enfranchisement, and their views will be recorded as part of the decision making process.</p>	For clarification.	<p>8 Member Notification</p> <p>The appropriate Cabinet Member and Ward Members will be notified in advance of all property transactions and their views will be recorded as part of the decision making process.</p> <p>The exceptions to this are the sale of individual residential ground rents in accordance with Leasehold Enfranchisement legislation, and decisions delegated to the Head of Strategic Assets & Facilities Management where Ward Members will be notified of the approval.</p>
3.7.3	<p>Delegated Decision Recording</p> <p>Delegated decisions will be recorded in a standard short form format, a draft template is available.</p>	The schedule template is used for the recording of day to day estate management matters within the delegated authority of the Head of Strategic Assets & Facilities Management in order to expedite the decision making process.	<p>9 Delegated Decision Recording and ModGov</p> <p>With the exception of those referred to below, all delegated decisions will be reported in the standard short form format, which is available on the Council's Intranet. Following approval, such delegated decisions are also to be recorded on ModGov.</p> <p>Other general estate management decisions delegated to the Head of Strategic Assets & Facilities Management will be recorded to the schedule template, a copy of which is attached.</p>
3.12	<p>Office Moves</p> <p>The Director of Economy will be responsible for all office accommodation as part of the wider Corporate Landlord function.</p> <p>It should be noted that due to the significant long term investment involved, express</p>	To have improved oversight of all office moves so they are coordinated and approached in a coherent and consistent manner.	<p>14 Office Moves</p> <p>As part of its' Medium Term Property and Office Accommodation Strategies, the Council needs to use its' office space in a much more efficient and cost effective manner in order to contribute to annual revenue savings targets.</p>

	<p>written approval from the Director of Economy is required before considering the installation of IT Hubs in Council property.</p>		<p>To achieve this, Corporate Landlord will have full control and oversight in co-ordinating and monitoring office moves across the Council's portfolio.</p> <p>All Service Managers are to adhere to the Land and Property Protocol and note that all requests for accommodation or office moves within the portfolio need to be referred to Corporate Landlord for written approval prior to any moves taking place.</p> <p>Requests should include a business case or briefing paper outlining the following:</p> <ul style="list-style-type: none">(i) The reasons for the proposed move including an indicative timescale.(ii) Estimates for ICT works (including data & power requirements), any works associated with redecoration or alterations, removal costs and any other incidental costs.(iii) Use of existing or surplus office furniture from within the Council's portfolio should be considered at the outset. The purchase of new furniture will only be considered where the proposed move creates a more efficient and cost-effective use of the office space via for example the use of smaller desks.(iv) Where a "move request" is Service led as opposed to one proposed by the Corporate Landlord (for example to vacate a building for disposal) then the Service will need to confirm that it has sufficient budget resource to fund its' proposed move.
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4.0	Protocol on Disposal of Open Space	To update the protocol on the disposal of Open Space ie inclusion of the Assessment Matrix referred to within Section 6.2 MTPS ie to provide additional guidance to surveyors.	<p>17 Protocol on Disposal of Open Space</p> <p>Inclusion of Appendix A – Public Open Space Assessment Matrix.</p>
N/A	New section to L&PP	Further guidance for Members and Officers and to update the process to cater for online tendering.	<p>Appendix B – Disposal Protocol / Methods of Sale</p> <p>Includes a summary of marketing methods as well as further guidance on each, exceptions together with a tender procedure and how to deal with late bids.</p> <p>Also includes an option in consultation with Legal Services for online tendering.</p>