

## MANAGEMENT OF REAL ESTATE, PROPERTY AND LAND (Revised May 2007)

Definitions :

Executive

This relates to the Executive as defined in Article 7 of the Constitution, a Cabinet Committee or Cabinet Member acting under delegated powers:

Area Environment Sub – Committee – The powers of these Sub – Committees are defined in Part 3 of the Council’s Constitution, Responsibility for Functions

1. The Council’s holdings of land and real property (“property”) are a corporate resource. Directors and Heads of Service will keep these holdings under review as part of the Property Review Process managed by the Head of Property Services. The Property Review Process will consider properties in the context of the Corporate Plan and Service Key Priorities and their ability to deliver continuing value for money for the council. A strategy framework will govern decisions on whether to (i) retain an asset for purposes in accordance with the Corporate Plan objectives or (ii) to dispose of the freehold (for capital generation purposes) or (iii) to lease it (for a combination of reasons including capital or revenue generation or other reasons serving the Council’s purposes). Future reports for decisions on action with respect to individual properties, in any one of these three ways would need to refer to the strategies within the framework and confirm compliance with it or reasons for departing from it. The strategies will be developed and monitored by the Executive Director for Resources in conjunction with the Cabinet Member for Resources with approval of them sought through Cabinet Resources Committee.
2. If it appears that a property (in the context of these Rules the term “property” shall include an interest in property) is no longer required by the Council or, in the event of the Council having appropriated the property through other mechanisms if it appears that such property is not required to be retained, then the procedures set out below will apply. These are in addition to any statutory requirement, such as a requirement for consultation.
3. The Executive Director for Resources (“EDfR”) or an officer designated by the EDfR (“designated officer”) will consult all Directors and Heads of Service on possible alternative uses of the property.
4. The EDfR or designated officer will report to the Cabinet meeting or the Cabinet Resources Committee (“the relevant body”). It may decide to transfer the property to an alternative Council use. Otherwise, it will deal with the disposal of the property or the disposal may be dealt with by the EDfR within the parameters set by the Leader’s scheme of delegation relating to executive functions.
5. On any disposal of property, proper regard will be had to the professional advice from a qualified valuer at all relevant stages in the process and where the EDfR or designated officer, the Cabinet Member for Resources or the

relevant body deems it appropriate, independent valuation advice shall be obtained.

6. Where the relevant body is to deal with the disposal, it will receive a report from the EdfR or designated officer or the Cabinet Member for Resources setting out an analysis of:-

- Comparative benefits and disadvantages to the Council and to local residents and other interested parties of the Council disposing of or retaining the property
- the objectives which the Council would secure by disposing of or retaining the property
- the alternative uses to which the property might be put with specific reference to the response from the Directors and Heads of Service.
- the alternative bases and methods of disposal
- the estimated disposal value or values
  
- the estimated costs associated with disposal together with a statement from the EdfR or designated officer on the extent to which each item of expenditure is anticipated to enhance the value of the property
- all other financial implications and risks associated with disposal or retention of the property by the Council
- the relevance of the proposed disposal within the context of the Corporate Plan and the Asset Management Plan.

The above requirements shall also apply where the report is made to the Cabinet Member for Resources or submitted to him/her in consultation.

7.(i) Whenever a decision is taken by the Executive or the Executive Director for Resources acting under delegated powers to advertise the possible disposal or appropriation of open space land, the Executive Director for Resources or designated officer shall report the matter to the next relevant Area Environment Sub-Committee to enable it to decide whether it wishes to make representations to the Executive in relation to the disposal of the open space land.

7(ii) In the event that the Executive Director for Resources confirms that there is insufficient time to report to the Area Environment Sub Committee (AESC) as above because of the timing of the committee cycle and the need to progress the disposal expeditiously the decision to advertise may be circulated to all members of the AESC and to the relevant ward members to give them the

opportunity to make representations to the Executive on the proposed disposal.

8. The EDfR or designated officer will where appropriate apply for any planning permission or other consent.
9. Where disposal by selected tendering is agreed, a report will be submitted to the relevant body. The report will set out :
  - those considered for selection
  - those recommended for selection
  - the reasons for the recommendation
10. Where disposal is to be by open tender, the EDfR or designated officer will advertise the property and seek competitive tenders reserving the right not to accept the highest or any bid. Advertisements will be placed in two newspapers circulating in the borough and in such other publication as the EDfR or designated officer considers necessary. The closing date for bids shall be not less than two weeks after the latest publication date.
11. The particulars of sale must indicate the method by which tenders are to be made. Tenders should not be considered unless contained in a plain envelope securely sealed and bearing the word "Tender" followed by the subject of the disposal and should not bear any other distinguishing mark to identify the tenders. The envelope should be addressed impersonally to the EDfR or designated officer and until the time appointed for opening shall remain in his or her custody. The EdfR or designated officer will maintain a list of all such tenders received distinguishing between those received before and after the closing date and time.
12. Tenders shall only be opened at one time, and only in the presence of:-
  - 12.1 The EDfR or designated officer or his/her nominated representative.
  - 12.2 An officer nominated by the Head of Legal.
13. Following the opening of the tenders, the EDfR or designated officer shall arrange for them to be scrutinised for compliance with the specified conditions of tender and subject to paragraph 14 report to the relevant body or Member for Resources if he/she has authority to accept the bid under the Leader's scheme of delegation relating to executive functions. The EDfR or designated officer will ensure that full enquiry is made as to the identity of the recommended purchaser and that the relevant information is clearly set out in the report.

14. Where a tender, amended tender or other bid is received after the specified closing date or time, or made other than in accordance with the specified conditions of tender, and would otherwise have been acceptable, the EDfR or designated officer must report the result of the tenders received including details of late or non-complying tenders to the next meeting of the relevant body.
15. Where a bid or offer is made after the relevant body or the Cabinet Member for Resources has taken a decision to accept an earlier bid or offer then the later bid or offer shall not be considered unless, in the EDfR view (after consulting the Head of Legal), it is necessary to do so in order for the Council to comply with statutory duties. In that case, the EDfR or designated officer shall report the matter to the relevant body or the Cabinet Member for Resources, or, in cases of urgency, take a decision under delegated powers and report afterwards to the relevant body.
16. The relevant body may decide to accept a tender or bid that is not the highest but must explain the reasons.
17. Where disposal by public auction has been agreed, the EDfR or designated officer shall before the auction begins provide the auctioneer with a note of the reserve price, if applicable, in a sealed envelope having previously agreed this in consultation with the Cabinet Member for Resources. The auctioneer shall open the envelope in the presence of the public to ascertain the reserve price but shall not communicate its contents to any person whatsoever. If the reserve price is equalled or exceeded, agreement for the sale to the highest bidder shall be concluded forthwith. If the reserve price is not reached, the property will be withdrawn from the auction and the matter reported to the relevant body.
18. All other disposals shall be regarded as disposal by private treaty and the EDfR or designated officer shall be responsible for:-
  - (i) Taking all necessary steps to determine the level of potential interest from prospective purchasers and to identify any parties who might wish to purchase the property.
  - (ii) Determining how the negotiations for each potential disposal by private treaty are to be conducted and setting the process out in writing.
  - (iii) Ensuring that full and reasonably contemporaneous records are made of all negotiations and that those records are appropriately stored either by hard copy or electronic means.
  - (iv) Upon the conclusion of negotiations reporting the results to the relevant body or Cabinet Member for Resources for consideration or where it is appropriate to do so for consultation with the Cabinet Member for Resources

- (v) Ensuring that full enquiry is made as to the identity of the recommended purchaser and that the relevant information is clearly set out in the report referred to in (iv) above.
19. All recommendations for approval of the sale price and other terms of disposal must contain a statement from the Chief Valuer or, if appointed, from suitably qualified external agents that the Council will obtain the best price which can reasonably be obtained or that there is approval through the General Consent or that the consent of the office of the Deputy Prime Minister has been obtained or will be sought to enable the disposal of the property to proceed as recommended.
20. The relevant body or Cabinet Member for Resources may decide to repeat or postpone the disposal process.
21. The relevant body may decide to change a previously approved method of disposal.
22. Where the prospective purchaser will be required by the Council to enter into obligations in the legal documentation in favour of the Council or of any other party or for the benefit of the locality, then the EDfR or designated officer will ensure that full and proper enquiry is made as to the financial and other capacities of the purchaser to carry out the obligations. In so doing, the EDfR or designated officer will consult as necessary with the Chief Finance Officer, the Head of Legal and other Directors and Chief Officers as appropriate. The EDfR or designated officer will set out the outcome of those enquiries and consultations in the report seeking approval to the disposal.
23. Where the Council is disposing of property jointly with another party then to the extent that the procedures for the disposal do not accord with these Rules they must be approved in advance by the relevant body.
24. (i) Once a disposal has been approved, the EDfR or designated officer will ensure that the Head of Legal is provided with full and accurate instructions to enable the legal documentation to be prepared in accordance with the terms of disposal agreed by the parties and approved on behalf of the Council. In cases of urgency, the EDfR or a designated officer may provide instructions to the Head of Legal to prepare and submit to the prospective purchaser or lessee or his/her/its advisors the draft legal documentation, subject to obtaining Council authority.
- (ii) The Head of Legal will ensure that the EDfR or designated officer is provided with a copy of the draft legal documentation for comments/approval before it is sent to the prospective purchaser or lessee or his/her/its advisors except in cases of urgency where the documents will be submitted to the EDfR or designated officer simultaneously with submission to the prospective purchaser.

- (iii) The EDfR or designated officer will confirm in writing that the draft documentation provided by the Head of Legal fully and accurately sets out the terms of disposal as agreed by the parties and approved on behalf of the Council.
  - (iv) The Head of Legal will consult the EDfR or designated officer in writing on all and any substantive amendments to the draft documentation and the EDfR or designated officer will respond to the Head of Legal in writing with comments on each proposed amendment to the draft documentation.
  - (v) Prior to completion the Head of Legal will forward to the EDfR or designated officer a copy of the final draft of the legal documentation as agreed with the prospective purchaser or lessee or his/her/its advisors and the EDfR or designated officer will read through the final draft documentation in order to verify that the documentation fully and accurately sets out the terms of disposal as agreed by the parties and approved on behalf of the Council.
  - (vi) The Head of Legal will not proceed to engross and complete any legal documentation unless and until the EDfR or designated officer has provided verification in writing that the final draft documentation fully and accurately sets out the terms of disposal as agreed by the parties and approved on behalf of the Council.
  - (vii) Reference to the Head of Legal includes officers authorized by the Head of Legal to carry out these instructions.
25. The Cabinet Member for Resources or the EDfR or the designated officer will regularly report to the relevant body on the progress of all previously approved disposals.