


Cabinet 8 April 2015	 TOWER HAMLETS
Report of: Corporate Director, Development & Renewal	Classification: Unrestricted
Property Procedures for Disposals and Lettings	

Lead Member	Councillor Alibor Choudhury, Cabinet Member for Resources
Originating Officer(s)	Ann Sutcliffe, Service Head, Corporate Property & Capital Delivery
Wards affected	All
Community Plan Theme	One Tower Hamlets
Key Decision?	Yes

Executive Summary

This report provides a recommendation to adopt revised procedures for disposals and lettings of the authority's council-owned properties.

A protocol for disposing of council owned property was approved by Cabinet in February 2009. In addition, a checklist setting out procedures involved in the disposal of council owned property was also produced.

This procedure and the existing procedure for lettings of commercial property are subject to review in light of the recent audits carried out by Mazars and PriceWaterhousecoopers (PwC).

The audit carried out by Mazars was completed in July 2014. The audit was based on an investigation into the circumstances of the sale of the Old Poplar Town Hall and the subsequent grant of change of use permissions.

One of the recommendations from this audit was to review the disposal policy. It was noted the policy was being revised and updated in conjunction with audit recommendations.

The Best Value inspection report on LB Tower Hamlets, carried out by PwC in October 2014, identified the council had failed to comply with its Best Value duty with regard to the transfer of property to third parties.

The revised procedure combines activities relating to disposals and lettings. It will ensure there is a consistent approach by officers who are involved in the disposal and letting of the council's portfolio of properties.

Recommendations:

The Mayor in Cabinet is recommended to –

1. Approve the revised Property Procedure for Disposal and Lettings.
2. Note the requirement for approval from the Commissioners, set out in paragraph 5.6 of the report.

1. REASONS FOR THE DECISIONS

- 1.1 It is important the council has robust procedures in place to deal with property related transactions.
- 1.2 It is prudent to combine existing procedures with regards to disposal and lettings of property
- 1.3 The previous procedures were approved five years ago and there is a natural requirement to review these procedures, not only in light of recent audits but also to recognise the landscape has changed since the previous disposal procedure was approved

2. ALTERNATIVE OPTIONS

- 2.1 The council is required to review its disposal procedure in accordance with Mazars report recommendation (5) and the PWC Best Value report, (October 14).

3. DETAILS OF REPORT

- 3.1 The revised property procedure for disposals and lettings (see Appendix 1) is significantly different to that previously approved by Cabinet in 2009. The three key differences are that this procedure seeks to combine both disposals and lettings. The second difference is that this procedure provides a 'step-by-step' guide for officers to follow when dealing with property disposals or lettings. Thirdly, the report provides guidance to officers when selecting a tenant for a community building. The key differences for lettings are summarised below:

- 3.2 The Principal Asset Manager will assign the case to an Asset Manager to act as lead officer
- 3.3 A Property inspection will be carried out when a property is declared surplus.
- 3.4 Identifies the steps involved in marketing the property and the use of external Agents
- 3.5 Identifies the steps involved in selecting a tenant for a community building
- 3.6 Identifies the steps involved in selecting a commercial tenant
- 3.7 Outlines the requirement when instructing Legal services
- 3.8 The changes with regards to deciding the method of disposal relate to the identification of surplus property and deciding on the method of disposal

4. COMMENTS OF THE CHIEF FINANCE OFFICER

- 4.1 This report asks the Mayor in Cabinet to approve the revised Property Procedure for Disposal and Lettings, as set out in Appendix 1.
- 4.2 The updated procedure combines activities relating to disposals and lettings to provide a step by step guide for officers. This should lead to improved efficiency through the clarification of roles and responsibilities within the disposal process, as well as providing guidance in relation to the process to be undertaken when selecting a tenant, both in relation to a community building or a commercial building (shop). The letting of council dwellings are subject to separate arrangements and are not part of these procedures.
- 4.3 The council holds assets of significant value which could generate resources for investment in other capital priorities if they are deemed to be no longer of specific use. The proposed procedures should speed up the disposal process of these assets if that is deemed to be the appropriate course of action which should lead to the earlier realisation of any capital receipt..
- 4.4 The council incurs significant expenditure in holding and securing vacant buildings that are earmarked for disposal and the improved processes should lead to a reduction in these costs.
- 4.5 While some of the changes in disposal procedures may require additional costs prior to sale in terms of consultation and professional support, these should be offset through the delivery of a more efficient disposal process and maximisation of the sale price.

5. LEGAL COMMENTS

- 5.1 Under section 123 of the Local Government Act 1972 the Council may dispose of its land in any manner that it may wish. However, except in the case of a short tenancy, the consideration for such disposal must be the best that can be reasonably be obtained. Otherwise, the Council requires the consent of the Secretary of State for such a disposal. There is a General Disposals Consent 2003 that permits a disposal at an undervalue in certain circumstances
- 5.2 If the land proposed to be disposed of consists of housing land the Council may pursuant to s32 of the Housing Act 1985 dispose of the land with the consent of the Secretary of State
- 5.3 The Secretary of State has given general consent for specified categories of disposal of housing land in the General Housing Consents 2013.
- 5.4 The Council is a best value authority within the meaning of section 3 of the Local Government Act 1999 and is obliged to “make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness”.
- 5.5 The report proposes that the disposals will be the subject of a marketing process. Such a process may be sufficient to demonstrate best consideration, market value or best value for the purposes of the disposal powers identified in paragraphs 5.1 to 5.3 above. Officers will nevertheless keep under consideration whether the processes are delivering the best consideration or market value (as the case may be) to ensure that the Council complies with the statutory requirements.
- 5.6 On 17 December 2014, the Secretary of State appointed Commissioners pursuant to powers under section 15(5) and (6) of the Local Government Act 1999 whose prior written agreement will be required to the disposal of property other than existing single dwellings for residential occupation.
- 5.7 In carrying out its functions, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who don't (the public sector equality duty). There is information in section 6 of the report relevant to these considerations.

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1. Effective management of disposals and lettings will ensure the council makes efficient and effective use of property. Equality issues may arise at the point of deciding whether a property is surplus to requirements and appropriate analysis will be carried out in making that decision. Experience has not shown that the conduct of disposals processes gives rise to impacts on persons with protected characteristics and consequently no express provision has been made within the procedure in Appendix 1.

7. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 7.1 The sale of properties will reduce the council's CO2 emissions. In addition, the redevelopment of former council-owned sites will result in improved

8. RISK MANAGEMENT IMPLICATIONS

- 8.1 The implementation of these procedures will enable the council to mitigate risks in relation to the management of empty properties, control expenditure and ensure officers act efficiently and consistently when dealing with these property related matters.

9. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 9.1 Vacant sites attract anti-social behaviour, including vandalism and squatting. The council expends funds ensuring that the buildings are secure however there are still attempts to enter the buildings in order to squat and/or vandalise.
- 9.2 These procedures will ensure vacant properties are managed more effectively.

10. EFFICIENCY STATEMENT

- 10.1 Where an asset has been identified as surplus to requirements, the council has the option to retain the asset for future use, and in the meantime to pay any costs associated with maintaining and securing the asset, or to sell the asset for a capital receipt.
- 10.2 In some cases, it will be more appropriate that the council dispose of the sites. The council will receive a capital receipt from the sale of the sites.

11. Appendices

11.1 Appendix 1 – Property Procedure for Disposal and Lettings

Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012

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