

Corporate Asset and Facilities Management

Estate Management

Procedure – Disposal of land or property by freehold or long lease (NB Encroachments are dealt with under a separate procedure)

1. Upon receipt of new enquiry

- 1.1 CAFM receive an enquiry regarding the potential disposal of land or property, it is released by the relevant managing service or it is identified for disposal investigation by Asset Management or other means. [DELEGATION REPORT.docx](#) [CAFM Disposal Process Framework- Template.doc](#)
- 1.2 If the extent of the land or property is not clear, this should be clarified by the caseworker.
- 1.3 A new case should be recorded with the Estate Management case management recording system. [..\Case Management\Live Estate Management worklist.xls](#) and regularly updated.
- 1.4 All documentation relating to the disposal should be stored within the Disposal folder of the A/Z asset entry on the CAFM Server. [..\..\..\A - Z](#). A key documents folder must be created. **All documents highlighted in red** must be placed in this folder for ease of reference.
- 1.5 An acknowledgement should be sent to the enquirer or managing service.
- 1.6 This acknowledgement, when to the general public, should confirm that the property is likely to be sold on the open market and the purchaser will be responsible for the Council's legal, valuation and surveyors fees as well as all their own costs. [..\CMBC Legal Fees\Legal Fees wef April 2014.doc](#)
[..\CMBC Surveyor's Fees\LPS Fees May2007.doc](#)
- 1.7 Occasionally enquiries are received for a type of property rather than a specific interest. In this case the mailing list should be updated. [..\..\..\Databases\Mailing List\Mailing List.mdb](#)

2. Initial Investigations

- 2.1 Ownership should be checked by the caseworker either online or within Archibus.
- 2.2 The caseworker should request a formal terrier check be undertaken by Business Change and Performance Management including a plan of the relevant property and one of the surrounding Council ownership. [LPS TERRIER CHECK.docx](#)
- 2.3 If not Council owned this is confirmed to the enquirer by Admin support.
- 2.4 The caseworker locates any existing related files both paper and electronic to identify any relevant history or background.
- 2.5 When any property is vacated by a service its availability is circulated within the Council in case another service has an interest in it. This is done through the Extended Leadership Group [Email to extended Leadership Team - Vacant Property.doc](#) **However it must be borne in mind that the Council is seeking to save revenue costs as well as obtain capital receipts so any proposal for another service to occupy a vacant property must demonstrate savings by doing so. It is also important that the service vacating confirms that their staff is aware of the impending change/closure.**
- 2.6 If another service expresses interest in the property an appropriation may be needed. This requires Legal advice [Appropriation Request for Legal Advice.doc](#) and a delegated authority report [Appropriation Report for Delegated Approval.doc](#)
- 2.7 The caseworker should obtain a formal **legal title check**, enclosing a copy of the **relevant site plan**, with the Council's Legal Services, to identify any onerous restrictions or covenants on disposal or use etc. The legal powers the land is held under by the Council must be specifically noted.
- 2.8 The Caseworker should advise FM (including the relevant AFO) that the property is potentially surplus to requirements in case there are any extant contracts which require them to give notice.

[Email to FM to terminate contracts.doc](#) The contacts for AFOs and Site Managers is located at: <file:///\\rd\\rd\\rdteams\\CAFM\\FM\\Facilities%20Officers%20Team\\Split%20of%20Buildings\\SITE%20CONTACT%20&%20AFO%20LIST.xlsx>

If the property is vacant, the caseworker should trigger CAFM'S Void Monitoring Procedure...\\..\\..\\Void Management\\6th DRAFT - Void Monitoring FINAL FOR APPROVAL.doc The monitoring spreadsheet should be updated. [T:\\CAFM\\Void Management\\Void monitoring record January 2014 to March 14.xls](#)

- 2.9 **VOID PROPERTIES** It may be that the property would be better protected by the use of the Guardians Monitoring Service (per Sarah Stokes s.stokes@adhoc.eu; Craig Mitchell c.mitchell@adhoc.eu; Steve Pursey s.pursey@adhoc.eu; www.adhoc.eu Regency House, Westminster Place, York Business Park, Nether Poppleton, York, YO26 6RW 01904-795657; 07837 643 282). The current list of properties occupied by Guardians must be updated. [..\\..\\..\\Void Management\\Property Guardians\\Current Property Guardian Agreements.xls](#) NB There are specific requirements that must be satisfied for the Guardians to occupy – see here: [FFE in empty CMBC premises 110313.doc](#) and [Premises security with Property Guardians in CMBC premises 200313.doc](#)
- 2.10 If the void property is to be inspected by FM they need to be advised [..\\..\\..\\Void Management\\Void monitoring record January 2014 to March 14.xls](#)
- 2.11 Refer to Shirley Lynch for information of what meters there are and the supplier details for the property in question.

3. Disposal Framework

- 3.1 Stage 1 of the Disposal Framework [CAFM Disposal Process Framework- Template.doc](#) should be completed and signed off in liaison with colleagues in Asset and/or Estate Management.
- 3.2 Stage 2 of the Disposal Framework [CAFM Disposal Process Framework- Template.doc](#) should be completed and signed off in liaison with colleagues in Asset and/or Estate Management.
- 3.3 A summary recommendation should be made, for a decision to be taken by the Asset and Facilities Management Programme Board. [Programme Board Report -blank.doc](#) / [Delegation Report - property at.doc](#) [Delegation report for head of service to declare surplus.doc](#) The draft report should be sent (BY HYPERLINK) to the Lead for Asset Management for approval and then to Eblin M for inclusion on the agenda. The caseworker is responsible for chasing up the outcome. The caseworker should implement any actions or recommendations from the decision of the Asset and Facilities Management Programme Board.

4. Consultation

If the disposal is approved by the CAFM Programme Board, then the caseworker should immediately undertake **consultation with Ward Members** and request confirmation of any objection within 21 calendar days.

Cabinet 9.7.2012 (Minute 19/B27): Formal consultation with Ward Members will be in writing and there will be a fixed period of 21 calendar days for this to take place. Ward Members must respond within this time frame. Any objection must outline their grounds for the objection

- 4.1 [Ward Members Disposal consultation letter - NEW Ips4.docx](#)
- 4.2 Members of the Capital Programme Working Party should also be advised through that forum of the status of the case...\\Disposal Programme\\Ongoing Live MCPPDWP Disposal Programme.xls
- 4.3 In the circumstances of any Ward Member objection, the disposal cannot be progressed without **formal Cabinet approval**. If there is any objection, the caseworker should ensure that the Lead for Asset Management is advised, as it may be necessary to raise this through to the Director and Portfolio Holder.

- 4.4 Potential disposals are communicated by the caseworker to Planning Services (Richard Seaman) and Highway Services (Peter Stubbs), including the Council's Householder and Trees Team within Planning Development Control (Keith Grady) to instigate any TPO's required.
- 4.5 The caseworker should liaise with the relevant member of the FM team to obtain any relevant keys, plans, surveys, certificates and warranties (condition/asbestos/DDA/M&E). These may need to be made available to the Council's agent, interested parties or the successful purchaser to enable suitable marketing and swift legal completion. FM should also be advised of the approximate timescale for the disposal so that they have adequate time to terminate any contracts in place.
- 4.6 Meter readings should be taken and recorded (date included).
- 4.7 Advise Eco dev of property availability

5. Implementation

- 5.1 The method of disposal, as agreed in the Stage 2 Disposal Framework, **CAFM Disposal Process Framework- Template.doc** should be implemented with either an in-house or externally procured disposal agent [..\..\Procurement](#) or auctioneer. If an external agent is to deal with the disposal they will require a briefing note detailing any Title conditions, tenancies, accommodation etc etc
- 5.2 The appointment of any external Agent is covered under a separate procedure. There is a framework agreement in place which is reviewed every 3 years (next due November 2014) [..\..\Procurement](#)
- 5.3 An **Energy Performance Certificate and Recommendation Report** should be obtained using the Council's contracted EPC provider. [Request for an EPC.doc](#)
- 5.4 The Council's website should be updated with details of any property being advertised for sale.
- 5.5 There should be suitable advertising of the property in the local paper or property press including the use of a for sale board.
- 5.6 The mailing list should be interrogated to see if there is any interest in the type of property to be marketed. [..\..\..\Databases\Mailing List](#)

6. A) Method of Disposal – In-house Informal Tender

- 6.1 The property is advertised for sale on the open market. It should also be added to the Council's website (email Diane Wilkinson with the details). The land is marketed by inviting informal offers, subject to contract, which are submitted in an official envelope by a specified closing date [Template Sales Details In house use.doc](#)
- 6.2 To avert any possibility of influencing the bids, in the case of freehold sales an asking price is not quoted to interested parties.
- 6.3 The disposal particulars, marketing information and advertisements are instigated by the caseworker and a Board is placed on the site.
- 6.4 The CAFM mailing list should be checked, together with the paper and electronic file to identify any parties that have previously expressed an interest. These parties should be sent a set of the marketing details. [..\..\..\Databases\Mailing List\Mailing List.mdb](#)
- 6.5 As soon as practical after the closing date the Lead for Asset Management or Estates Manager opens any offers received, with another member of the CAFM team and pass the offers (or confirmation of no offers) to the caseworker. The staff member dealing with the case cannot open the offers.
- 6.6 The document from the purchaser (normally **signed offer form** – see particulars) detailing the highest offer should be retained.
- 6.7 The Offers received are assessed having regard to all relevant circumstances and if one or more are considered to be acceptable the following actions are carried out: -

- The successful bidder will be informed in writing.

If no acceptable offers are received:

- Contact is made with the highest offeror(s) with a view to negotiating an increase on their offer to an acceptable figure.
- If two offers are received for the same amount the offerors are requested to submit their best and final offer in an official envelope by a specific date.
- Failing the above, the land/property is remarketed.
- If an acceptable, unsolicited offer is received prior to exchange of contracts which is higher than the original successful bid, the original bidder and the maker of the unsolicited offer are invited to submit a Final and Best Offer in the envelope provided by a specific date.
- If an **acceptable Final Offer** is received the actions from 10.1 are carried out.

6.B) Method of Disposal - Private treaty – one to one negotiation

- 6b.1 Only in EXCEPTIONAL CIRCUMSTANCES is the open market procedure/agency/auction not to be used and private treaty negotiations entered into. These exceptional circumstances may be ransom strips, sales to existing sitting tenants where there may be synergistic value, development sites etc where a special purchaser may be in a position to pay in excess of the open market value. This option and opportunity would be identified and agreed at Stage 2 of the CAFM Disposal Framework.
- 6b.2 It is preferable that any one-to-one recommendation and discussions are undertaken by an independent external RICS Accredited Valuer or professional agent with a relevant specialism. For quasi public body disposal (i.e. schools, health properties), the District Valuer is recommended.

6c) Method of Disposal – Auction

- 6c.1 Legal Services are instructed of the intention to dispose of the property by auction. This includes an instruction to register the Council's legal title with the Land Registry if not already registered. [Instructions to Legal Sale by Auction.doc](#). It should also be added to the Council's website (email Diane Wilkinson with the details).
- 6c.2 The auctioneer is instructed of the intention to dispose of the property and appropriate details supplied to the auctioneer i.e. plans and viewing arrangements. A deadline date is set by the auctioneer before which specific instructions need to be received to meet the timetable for a specific auction date.
- 6c.3 The auctioneer submits catalogue proofs and guide prices and these are agreed prior to publication of the auction catalogue. The **auction proof** is authorised by the Caseworker Surveyor and a copy placed on file.
- 6c.4 Immediately prior to the auction, the auctioneer and caseworker agree the reserve price.
- 6c.5 A **CAFM delegation report** is prepared, [Draft Delegation Report - property at.doc](#) seeking approval for the property to be sold at auction at or above the reserve price agreed. The caseworker and the Lead for Asset Management or Estates Manager must sign this report prior to the commencement of the auction.
- 6c.6 Once the auction has taken place an email can be sent to Legal and FM advising them of the outcome etc

6d) Method of Disposal – Agency

- 6d.1 A suitable disposal agent is appointed in accordance with a separate procurement procedure. [\..\Procurement](#).

- 6d.2 The agent is instructed of the intention to dispose of the property and appropriate details supplied to the Agent i.e. plans and viewing arrangements. [..\..\Procurement\Request for Property Agent to tender for work.doc](#) It should also be added to the Council's website (email Diane Wilkinson with the details).
- 6d.3 The agent prepares and undertakes a marketing campaign, including sales details, mailing list, for sale boards and internet advertising.
- 6d.4 The **agent prepares a suitable report**, at the end of marketing campaign and recommends and certifies that an offer satisfies s123 Local Government Act 1972. This report is used to support the CAFM delegation report.
- 6d.5 The agent should liaise with all the interested parties, the purchaser, the Council's legal Services and the CAFM caseworker as required.

7. Formal Approval to terms

- 7.1 If an acceptable offer is received from any of the disposal methods above:
A **CAFM delegation report** [Draft Delegation Report - property at.doc](#) is prepared to the Lead for Asset Management or Estates Manager and Property Manager recommending acceptance of an offer.
- 7.2 Letters are sent confirming acceptance/rejection of the offer as appropriate. Reserve offers may be accepted in the event of the first offeror not proceeding. This is undertaken by the CAFM caseworker or the agent if this is dealt with by an external agent.
- 7.3 The caseworker ensures that the Council's website is updated (per Christine Robinson) and the relevant members of the FM team are advised of the latest position.
- 7.4 As soon as the **Delegation Report** is approved, **instructions are sent to Legal Services including a red line boundary plan**. If the sale was dealt with by an external agent, upon formal CAFM delegation report approval, the agent should submit detailed heads of terms to the Council's Legal Services and the CAFM caseworker. [Instructions to Legal to Proceed with Sale dealt with by Agent.doc](#) or [Instructions to Legal - non auction.docx](#) [Instructions to Legal Sale by Auction.doc](#)
- 7.5 Where the proposed use requires **Planning Consent**, it may be appropriate to instruct Legal Services to enter into a Conditional Contract. (e.g. Conditional on the purchasers obtaining planning permission or carrying out a satisfactory ground investigation survey), and impose strict time limits to enable the Council to withdraw from the transaction if necessary

8. Legal Completion and Practical Issues

- 8.1 The caseworker or appointed agent should have regular contact with Legal Services to ensure the disposal is proceeding in a timely fashion. Any delays should immediately be raised with the purchaser and a time limit set for suitable action.
- 8.2 On receipt of the **completion statement** on completion of the transaction from Legal Services:-
- Communicate the completion to the relevant FM staff, including the AFO. [Email to FM to terminate contracts.doc](#)
 - The FM team are instructed to remove premises from Void Monitoring, if it has previously been void monitored. Alternatively, if the Guardians have been used they should be notified and vacate the day before. If it is deemed appropriate, according to the nature etc of the building, a security firm can be commissioned to cover the final 24 hours.
 - Meters should be read, recorded and Finance informed. Take photos of the meters with those readings and hand a copy to the new owner/agent. (Shirley Lynch should be able to supply details of what meters there are and the relevant suppliers). **[LPS10 - Property Handover Form.pdf](#)** and the key record should be updated [..\..\Keys](#)

- Communicate the completion to the Service Desk, to ensure Archibus is updated
- Ensure Business Change and Performance Management has received the completion statement.
- Update the Estate Management Case Management System [..\Case Management\Live Estate Management worklist.xls](#)
- The financial records are amended and if required rent invoices or credits raised.
- The Council's internet site is updated and all for sale boards should be removed.
- Update BOTH disposal programme update xls i.e. [..\Disposal Programme\Disposal Programme Progress Sheet.xls](#) AND [..\Disposal Programme\Ongoing Live MCPPDWP Disposal Programme.xls](#)
- Inform Rates and Insurance Sections
- The A – Z folder should then be moved to A – Z Archive and an empty folder made in the A - Z stating the name of the asset and marking it 'moved to archive'. The caseworker should check that all the key documents are present in the KD subfolder including the Disposals Checklist.

8 **All documents highlighted in red** and any other the caseworker deems appropriate must be stored in the Key Documents folder with the disposal folder of the asset A/Z.

9. Note

9.1 All CMBC fees to be funded by purchaser (legal, valuation and surveyors)

9.2 FL code 54 38 48 13 for any insurance works, this will be for orders/invoices & pay outs from insurance

9.3 54604413 Property Valuation Costs (surveyors fees etc)

54604815 Advertising costs (for sale boards etc)

54609413 Income from Legal and Surveyors Fees

The code for cost of sales is 16644815

The code for Land Registry searches is FL 16504895

The FL code for any insurance works is 54 38 94 00

9.4 All disposals over £2m and key decisions have to be approved by Cabinet.

9.5 Any disposal which does not satisfy s123 Local Government Act 1972 has to be approved by Cabinet.

9.6 The disposals programme xls comprises two workbooks: the first is the CAFM ongoing detailed sheet [..\Disposal Programme\Disposal Programme Progress Sheet.xls](#) and the second is the 'traffic light' report for the Capital Programme Working Group (per Martin Bottomley). He will request an update from time to time. [..\Disposal Programme\Ongoing Live MCPPDWP Disposal Programme.xls](#)

9.7 Undervalue disposals:-

- Refer to RICS Red Book Disposal at undervalue guidance
- If undervalue greater than £2m, Central Government Office consent required
- General Disposal Consent Order 2003 must be satisfied
- Beware land under Housing, Planning powers and land used for education or recreational uses, may also require consent if undervalue is only £1.

Estates Manager

date

DRAFT