

## REPORT TO POLICY & RESOURCES COMMITTEE – 11 JUNE 2015

### SURPLUS PROPERTY POLICY

#### 1 Recommendations

The Policy & Resources Committee is recommended to:-

- 1.1 **Approve the attached revised Surplus Property Policy at Appendix A, which includes an Asset Review Procedure at Appendix 1 to the Policy and Property Disposal Procedure at Appendix 2 to the Policy;**
- 1.2 **Revisals to the Community Asset Transfer Policy, mainly in respect of the definition of a significant capital receipt; and**
- 1.3 **The granting to the Head of Legal and Governance and the Head of Finance delegated powers to revise the minimum sale price, legal fee and definition of “significant” referred to in the Policy**

#### 2 Discussion

- 2.1 The current Surplus Property Policy was approved by the Policy and Resources Committee on 21 April 2011. The attached revised policy addresses the fact that the process for declaring properties surplus has not been well defined (until a Surplus Property Procedure was introduced by Property & Facilities Management (P&FM) in 2014). This document set out a clear procedure but was only intended to be an interim measure until a revised procedure could be formulated and incorporated within an approved policy.
- 2.2 The revised Policy also introduces a new **Asset Review Procedure** which formalises current practice. It also provides a new **Property Disposal Procedure**, which amalgamates previous Surplus Property Guidance and Surplus Property Procedure documents.
- 2.3 To accelerate the identification and challenge of assets P&FM has undertaken a review of current operational properties, together with a number of historic operational assets that are both vacant and closed, and selected non-operational assets. This high level desktop review has been undertaken based on a review of Core Facts, understanding of the assets' performance and long term proposals for assets as identified during preparation of previous and ongoing asset strategies. In addition, historic knowledge of previous considerations for a number of assets has also informed this desktop review.

This has enabled draft long term proposals for all established assets to be categorised as either: Release; Review; or Retain, defined as follows:-

- (i) **Release** - Assets previously identified for release by Services through approved Asset Strategies or considered for release in previous years but not progressed at that juncture. Assets for release also include a number which are identified as or known to be underperforming. Release of an asset also includes demolition (where the option to dispose of an asset on the open market does not exist or is not preferable at this juncture), transfer to the Non-Operational Investment Portfolio, or Community Asset Transfer.
- (ii) **Review** – Further investigation and consultation with the Service is required to determine current and future needs for Service delivery. A possible option is to release the asset.
- (iii) **Retain** – Asset function required for long term Service delivery.

- 2.4 In summary, this desktop review, covering 827 facilities, suggests 165 to release, 306 subject to further review, whilst 356 are to be retained. These figures include 81 facilities which are currently vacant, many of which form part of a larger asset e.g. public conveniences within recreation parks.
- 2.5 It should also be noted that number of assets highlighted for potential release are dependent upon investment within other facilities to enable any release to occur. Such investment may take the form of new build, extension or refurbishment to enable amalgamation or rationalisation within the wider portfolio.
- 2.6 There is currently a tension between the need for the Council to dispose of assets to generate capital receipts and the Community Asset Transfer (CAT) Policy. CAT applications can considerably delay the disposal process. The CAT Policy states that some assets are not suitable for transfer, including those that have potential to generate significant capital receipts if sold on the open market (see bottom of Page 1 of the CAT Policy Statement provided at Appendix B). Currently there is no definition of “significant”. **It is proposed that the CAT Policy be amended to state that assets capable of generating a capital receipt of £100,000 or above will not generally be considered suitable for transfer under the CAT Policy and this will be grounds for rejection of an application at Stage 1 of the CAT Policy. It will be possible for a rejection on such grounds to be appealed under the CAT Policy. For an appeal to succeed it will be necessary to demonstrate that special circumstances apply that outweigh the general presumption that such properties are not suitable for transfer under the CAT Policy. It is proposed that the Head of Legal and Governance and the Head of Finance will have delegated powers to change the threshold figure stated above. In addition, the CAT Policy will be amended to clarify that any disposal will not take place until a decision has been made on any CAT application, on the proviso that the application is progressed timeously by the applicant.** These changes should significantly reduce the impact of CAT applications on significant disposals. Officers in the P&FM Service consider that a full review of the Council’s Community Asset Policy is required but this is outwith the scope of the current report. Although the CAT Policy will almost certainly require further review should the Community Empowerment Bill be enacted it is considered that an

early interim review is required to reflect lessons learned from operation of the Policy over recent years and to address issues that have arisen due to the current policy having been formulated at an early stage of the Community Asset Transfer process. It is envisaged that when the CAT Policy is reviewed it will be combined with the Surplus Property Policy and a new Community Empowerment Policy to provide an all-encompassing policy on asset disposals.

- 2.7 The revised Surplus Property Policy, via the Asset Review Procedure **gives responsibility for declaring properties surplus to P&FM as part of its Corporate Landlord role**. Previously, whereas the process for declaring a property surplus has been somewhat unclear services have generally taken the lead in declaring properties surplus. This is seen as being an unnecessary step that delays the disposal process. P&FM has embarked on a comprehensive asset review process in cooperation with services and is best placed to declare properties surplus. As part of this same process P&FM is in a position to consider whether the property under review is suitable for use by other services, removing the need for other services to be advised of the availability of the property, again cutting out what is considered to be an unnecessary step that delays the process. This approach sits well with the Council adopting a stronger Corporate Landlord role. The revised procedure makes provision for the Area Manager and Ward Members to be advised that a property has been declared surplus and is being considered for disposal. This allows these parties an opportunity to propose an alternative approach.
- 2.8 Currently services “hold” properties within their service and have an associated budget for some expenditure. Each service contributes to a Repairs and Maintenance budget held by P&FM, but is directly responsible for some other items of expenditure (e.g. rates). This budget should be passed to P&FM when the property is declared surplus. Arguably there should be no need for properties to be held by services nor for the services to hold property budgets. Under an expanded Corporate Landlord model all properties and their associated budgets would be held by P&FM. However, this proposal requires further consideration and is not proposed as part of the current report.
- 2.9 The Estates Section within P&FM receives a significant number of enquiries from members of the public for sales of small areas of land or seeking confirmation of ownership. These enquiries can be time consuming to deal with and often lead to abortive work. It is likely that the Council is seen as a free source of information and is approached rather than the enquirer making enquiries by more expensive means. In fact, recent legislative changes could result in the costs associated with selling small areas of land increasing significantly. Therefore, it is proposed that **the Council should have a policy of having a minimum price at which it will sell property. A figure of £5,000 is proposed. In addition, it is proposed that a charge of £750 should be introduced for responding to ownership enquiries from members of the public, whether or not it transpires that the Council owns the land. It is proposed that the Head of Legal and Governance and the Head of Finance will have delegated powers to change these figures**. Although the Council has a comprehensive list of the buildings it owns, it does not currently have a comprehensively accurate, readily available, mapped record of its property ownership, as a result of which most enquiries require time and effort (particularly from L&G) to provide a response. The process necessary for producing a more comprehensive and

accurate map based record of the Council's property ownership is currently being assessed and will be the subject of a future report to SLT.

- 2.10 **Although it has been recent practice, there is currently no policy that common good disposals will be referred to Area Committee. It is proposed that this be incorporated into policy i.e. it will not be competent for disposals to proceed by way of officer delegation. This will require changes to the Scheme of Delegation and the Officers' Scheme of Delegation.**
- 2.11 A recent audit of property disposals concluded that an updated policy should be submitted to Policy and Resources Committee, hence the reason for submitting a report at this juncture and not waiting for a fuller review of the Community Asset Transfer Policy linked to the anticipated Community Empowerment Act.
- 2.12 The Head of Finance has been consulted in the preparation of this report and made no adverse comment.
- 2.13 The Monitoring Officer has been consulted in the preparation of this report and made no adverse comment.

### **3. Equalities, Staffing and Financial Implications**

- 3.1 An equality impact assessment is not required because the recommended actions do not have a differential impact on people with protected characteristics.
- 3.2 There are no staffing implications at this stage.
- 3.3 The proceeds of property sales are allocated to the Sales line in the Capital Plan (except where they relate to Housing Revenue Account or Common Good properties). The receipts from disposals of surplus properties are often stated as being part of the justification for adding projects to the Capital Plan. If for any reason the anticipated capital receipts are not achieved there will be a requirement for the funding to be found from another source, most likely from additional borrowing. This will also have revenue implications. Any delay in selling properties can also have significant revenue implications. Community Asset Transfer applications can particularly delay disposals and can result in capital receipts either not being achieved or being significantly reduced. **It is proposed that the Sales line be amended to reflect identified disposals and that where a sale cannot proceed or is to proceed at a reduced level (e.g. discounted under the CAT Policy) the Sales amount is reduced accordingly.** This will result in the need to identify an alternative source of finance as a result of any decision that results in a reduced or delayed capital receipt.

**STEPHEN ARCHER**  
**DIRECTOR OF INFRASTRUCTURE SERVICES**

## **SURPLUS PROPERTY POLICY**

### **1 POLICY STATEMENT**

Aberdeenshire Council will maximise the performance of its property assets by adopting a strategic approach to Asset Management that reviews and challenges the use of property assets to determine their suitability for current and future service delivery, where necessary implementing the delivery of enhancements or replacements, making provision for service delivery from alternative properties and the declaring surplus of properties that are no longer required for service delivery or are under performing.

- 1.1 The process by which the Council reviews its assets is set out in the Asset Review Procedure at Appendix 1. A potential outcome of the procedure is that a property that has been reviewed will be declared surplus to the requirements of the Council.
- 1.2 The process the Council adopts in disposing of surplus property is set out in the Property Disposal Procedure at Appendix 2.

### **2 SCOPE OF POLICY**

- 2.1 The provisions of this Policy are supported by the Asset Review Procedure and Property Disposal Procedure and aligned to the long term objectives and purposes outlined within the Corporate Asset Management Plan.
- 2.2 The Policy only applies to land and buildings held by Aberdeenshire Council and specifically excludes Heritage Assets (tangible fixed assets with historical, artistic, scientific, technological, geophysical or environmental qualities that are held and maintained principally for their contribution to knowledge and culture). Heritage assets will not generally be considered as suitable for disposal.

### **3 LINKS**

#### **3.1 Supporting Documentation**

- 3.1.1 This Policy reflects the following:-
  - (i) Corporate Asset Management Plan (as approved by the Policy and Resources Committee on 15 January 2015)
  - (ii) Asset Disposal (report to Policy and Budget Steering Group 28<sup>th</sup> March 2012);
  - (iii) Community Asset Transfer Policy (as approved by Policy and Resources Committee 9<sup>th</sup> June 2011);

### 3.2 Previous Documentation

3.2.1 This Policy replaces the following:-

- (i) Surplus Property Policy
- (ii) Surplus Property Guidance
- (iii) Procedure For The Disposal of Property

3.2.2 This Policy amends the Community Asset Transfer Policy.

## 4 PRINCIPLES

4.1 This Policy is adapted to reflect Scottish legislation, Chartered Institute of Public Finance and Accountancy (CIPFA) guidance and the strategic requirements of Aberdeenshire Council. The Procedure only applies to land and buildings held by Aberdeenshire Council and specifically excludes "Heritage Assets".

4.2 All property is held centrally and managed as a corporate resource. The Council adopts a Corporate Landlord model. As such, through the Property & Facilities Management team, it provides Architectural, Quantity Surveying, Engineering, Estates, Asset Management and Facilities Management services in-house. This team manages the Council's operational, investment and surplus property portfolios. It manages planned and reactive maintenance for operational and investment properties and facilities management for operational properties. It designs, costs, procures and project manages major capital projects and enhancement schemes. It acquires land and property for development and occupation and disposes of surplus property. Overarching these services is a comprehensive asset management regime that drives the development, maintenance, acquisition and disposal programmes. This Corporate Landlord approach underpins the Council's approach to the identification of properties that are surplus to the requirements of the Council through the Asset Review Procedure and the disposal of these properties through the Property Disposal Procedure.

## 5 COMMUNITY ASSET TRANSFER

There is a potential conflict between the Council's Surplus Property Policy and the separate Community Asset Transfer Policy. However, the Community Asset Transfer Policy addresses this by providing that properties that are capable of producing a significant capital receipt will not generally be considered suitable for transfer under the CAT Policy. The definition of "significant" in this context is now defined in this revised Surplus Property Policy under the Property Disposal Procedure at Appendix 2. The Community Asset Transfer Policy is to be revised to incorporate this threshold and to state that it will be appropriate to refuse CAT applications at Stage 1, if the property meets this definition.

## **6 MINIMUM PRICING AND OWNERSHIP ENQUIRIES**

The Council receives a significant number of enquiries from members of the public for sales of small areas of land or seeking confirmation of ownership. These enquiries can be time consuming to deal with and often lead to abortive work. The costs associated with selling small areas of land are increasing significantly. Therefore, the Council has a policy of having a minimum price at which it will sell property. This is set out in Property Disposal Procedure. The Procedure also states the amount that members of the public are charged for responding to ownership enquiries, whether or not it transpires that the Council owns the land. Although the Council has a comprehensive list of the buildings that it owns, it does not currently have a comprehensively accurate, readily available, mapped record of its property ownership (including accurate boundaries), as a result of which most enquiries require significant time and effort (particularly from the Legal & Governance Service) to provide a response.

## **7 REVIEW**

It may be necessary to review this Policy, the Asset Review Procedure, the Property Disposal Procedure and the Community Asset Transfer Policy if the Community Empowerment Bill is enacted. The terms of the Bill have been reviewed prior to producing this Policy, but the terms of the Bill have not been incorporated at this stage. It may also be necessary to review the figures applicable to significant capital receipts (Community Asset Transfer Policy) and minimum sale price and ownership enquiries (Property Disposal Procedure). This is delegated to the Head of Legal and Governance and the Head of Finance.

## APPENDIX 1

### ASSET REVIEW PROCEDURE

#### 1 Introduction

- 1.1 Asset Management is the mechanism to support decisions made in regard to the assets the Council holds. As part of Aberdeenshire Council's approach to Asset Management it regularly reviews its assets to determine their suitability for current and future service delivery. This Procedure sets out the process by which the Council reviews its assets.
- 1.2 The objective of the process is to implement the Council's requirement to only hold assets that meet the Council's objectives for operational, socio-economic or investment estates. Identifying surplus property will enable actual and latent capital value tied up in potentially surplus assets to be realised. It will reduce liabilities, unlock the benefits of regeneration, enable Local Community Development Plan policies to be realised, and maximise the proceeds or land use benefit from particular disposals for the benefit of the Council and its communities.
- 1.3 Each service within the Council is responsible for producing strategies which identify the key assets required to fulfil their objectives within the Single Outcome Agreement, the Aberdeenshire Community Plan and its community planning themes and the Council Plan as well as meeting the need for additional community infrastructure within areas of population growth.
- 1.4 The Corporate Asset Management Plan approved by P&R in January 2015 is developed in line with CIPFA guidance and is an umbrella plan incorporating service specific asset management strategies covering Property, Open Space, Roads, Housing, Fleet and ICT assets. This plan informs the development of the Capital Plan which sets out the investment priorities for the Council over the next 15 years.
- 1.5 The Property & Facilities Management (P&FM) Service challenges the need for services to retain properties used by them that fall within the definition of under-performing asset.
- 1.6 Services are expected to review and update their asset management strategies at regular intervals to ensure the validity of future requirements and investment. In addition, P&FM works with services to challenge the use of assets. Assets that are identified as surplus to the needs of the Council as a result of these reviews are disposed of in accordance with the associated Surplus Property Procedure.

## 2 Definitions

2.1 *Under-performing assets* are those assessed in the Asset Management Plan as poor or bad (i.e. rated C or D) in 2 or more categories, namely, condition, suitability, sufficiency, environmental factors, energy consumption and running costs. In addition a property should be deemed to be under-performing if any of the following apply:-

- (i) Part of the property is vacant and likely to remain so for some time
- (ii) The alternative use value is greater than the existing use value and relocating the service elsewhere results in a net capital receipt
- (iii) The beneficial use or financial return (both revenue and capital) generated from the property is below that which could be achieved from an alternative use, or a disposal and alternative investment opportunity

2.2 A property should be declared *surplus* if any of the following circumstances apply:-

- (i) It makes a relatively poor contribution to delivery of the Council's services, either directly or indirectly, does not generate appropriate income and has little or no potential for future service delivery or community regeneration purposes. This is dependent upon identification of alternative facilities/method of service delivery if service continues to be required.
- (ii)
- (iii) An alternative site has been identified which would achieve a lower cost and/or more cost effective service delivery i.e. has a lower opportunity cost.
- (iv) It has no viable potential for future alternative service delivery or for regeneration.
- (v) Its condition, suitability, sufficiency and environmental factors result in high running costs that cannot be rectified through reasonable capital investment.
- (vi) A change in service delivery methods results in the property being no longer required.
- (vii) A decision has been taken to replace the asset with a new build facility.

## 3 Identification of Surplus or Under Performing Property Assets

3.1 Through the asset management process led by Property and Facilities Management

3.1.1 All property is held centrally and managed as a corporate resource. Consequently, property decisions must be taken at a strategic level rather than at an individual service level. As a result, the Council's land and buildings are managed by the P&FM Section within Infrastructure Services.

- 3.1.2 As part of its asset management function P&FM is responsible for reviewing the property assets required to support service delivery. This includes consideration of the requirement for current and future service delivery, the suitability of the assets from which services are currently delivered, the need for enhancement or replacement of those assets, whether services can be delivered from alternative assets and whether any existing assets should be declared as surplus to requirements to the delivery of services and, if appropriate, to the requirements of the Council. As part of any review, consideration should be made by Services to review alternative methods of service delivery.
- 3.1.3 P&FM is responsible for the collection of Core Fact data covering Property Assets. This Core Fact data extends to condition, suitability, backlog maintenance and Energy Performance Certificate information, along with utilisation/sufficiency being collected for specific asset groups. On a regular basis Core Fact data is refreshed and under-performing assets identified.
- 3.1.4 P&FM, in conjunction with the relevant service, examines the reasons for under performance. In addition, a review of the asset's overall contribution to fulfilling defined criteria for service delivery is carried out, e.g. the asset fulfils a statutory requirement; contributes to the Council's Strategic Priorities etc. Should the asset prove to be essential to service delivery, a business case and option appraisal is prepared to address the under-performance issue.
- 3.1.5 Options may include:-
- (i) Targeted investment in the under performing asset to address matters of condition, suitability, energy performance etc;
  - (ii) Relocation of the service to another suitable asset, or colocation, of Services to the asset by either the Council, a Partner Agency or 3<sup>rd</sup> Sector Partner, to improve the assets' sustainability/utilisation. This action may also permit release of an alternative asset.
  - (iii) Procurement of a new asset.
- 3.1.6 When the asset proves to be non-essential, alternative proposals are to be considered, both in terms of asset requirements and service delivery methods. In addition, a business case is prepared recommending disinvestment for the existing, under-performing, asset. Should the service delivered from the asset no longer be required, or alternative options for service delivery are preferred and implemented, the location of the asset under review is assessed for its strategic importance within the settlement for future service delivery or regeneration. The outcome of this analysis determines whether the asset is retained or declared surplus to the requirements of the Council.
- 3.1.7 In addition to reviewing an asset on the basis of its performance, a review also takes place where there is a perceived opportunity to develop or dispose of the asset in partnership with neighbouring proprietors or as part of a comprehensive redevelopment which can offer substantial capital and/or revenue returns to the Council, along with regeneration opportunities.

3.1.8 If a conclusion is reached that there is no longer a need for the asset then the process as outlined in Surplus Property Procedure should be followed.

3.2 Through strategic review of service priorities by the service

3.2.1 Each service within the Council is responsible for periodically reviewing and refreshing its asset management strategies to take account of changing service priorities or changes to the way services are delivered. These reviews can take place outwith the timescales for reviewing and updating Core Fact data and can identify assets which are surplus to their requirements.

3.2.2 P&FM supports these reviews through the provision of data on assets being used to deliver the services and undertakes assessment studies as required to help develop the business case for new or replacement facilities.

3.2.3 A number of replacement facilities have been included within the capital plan covering such properties as schools, care homes etc. When developing the business case, and subsequent Gateway Reports, for these projects it should be confirmed that the existing facility will be surplus to requirements of the service.

3.2.4 If no alternative use can be identified the property should be declared surplus at the same time as approval is given for the new build project to go ahead. The asset can still be in use by the holding service at this time, there is no need for it to be vacant before declaring surplus, this action enables the disposal process to commence at an early opportunity, limits the timescale that assets remain vacant and mitigates any impact vacant assets have within communities.

3.2.5 Making it clear that the asset will be surplus to requirements of the service once the replacement facility is ready will allow time to consider whether it is surplus to the requirements of the Council. Decisions must not be left until the asset is vacant as this could result in increased costs and/or reduced revenue or capital receipts.

3.2.6 If the property is no longer required for current service delivery consideration should be given to its location and its potential for future service delivery, economic development or regeneration. Officers from Economic Development can help with this assessment, the outcome of which will determine whether the asset is retained meantime with alternative short term occupancy or offered for disposal.

### 3.3 Other ways in which a property asset may be identified as surplus

3.3.1 Apart from declaring assets surplus, disposals can arise in a number of ways. These include:-

- (i) A Property is identified as having potential for development or redevelopment and its service can be relocated.
- (ii) Following an approach from an outside party, e.g. developers, adjoining landowners etc.
- (iii) Through development partnerships such as asset backed vehicles or local housing associations.
- (iv) Following requests from community groups or public bodies for the transfer of an asset. Where a statutory duty to transfer arises, e.g. Compulsory Purchase, Statutory Wayleave etc.

## **4 Declaring a property surplus to the requirements of The Council**

4.1 Once it is concluded that an asset may be surplus to the requirements of the Council the property will be added to the Asset Disposal Schedule. Consideration will then be given to whether there may be any unintended consequences of such a declaration, failing which the property is declared surplus.

4.2 If Committee approval is required to stop providing a service from an asset it is the responsibility of the holding service to gain that approval prior to the property being declared as surplus.

4.3 Should the property not be suitable for declaring surplus, the Estates Section will advise of the appropriate course of action that will be required.

## **5 Consideration of whether to dispose of property**

5.1 The long term revenue income of the Council requires to be preserved or increased. Any opportunity to increase revenue will be fully investigated by officers during the surplus property process. In the circumstances, there will be a general presumption against disposal of assets capable of producing income unless officers are of the view that a substantial capital receipt could be generated, or an opportunity exists to facilitate this via partnership with adjoining owners or developers, which offsets the loss of revenue income.

5.2 Some categories of property are not considered suitable for sale on the open market.

### **(i) Industrial and commercial properties**

There is a general presumption against disposal of properties within this part of the portfolio, except in cases where the likely capital receipt is significantly higher than the capital value to the Council of the likely income stream or where the justification on Economic Development grounds significantly outweighs the value to the Council of maintaining the income stream and the property is to be sold at market value.

(ii) **Playing fields, open space and amenity land**

Assets in these categories are considered to be valuable community resources, to be enjoyed by the wider community. There will be a general presumption against the disposal of such assets. The general presumption will not apply in relation to playing fields where there is an over provision in the area or alternative provision is being made and the benefit to the Council justifies disposal. Before disposing of playing fields Planning and SportScotland are consulted where appropriate for views on the level of provision and the suitability of replacement facilities.

5.3 Some assets may be subject to disposal despite not having been previously declared surplus.

(i) **Disposal of assets for community regeneration**

Disposal to developers for community regeneration schemes by way of asset backed vehicles or to Registered Social Landlords (RSL) for the development of affordable housing and extra care schemes. In these cases the Council must direct whether or not disposals will take place at the best price that can reasonably be obtained or whether prices are to be discounted to achieve the outcomes of the proposed schemes. It is also beneficial in some circumstances to transfer land for a development by way of a building licence agreement, by transferring the legal interest in the land, and taking the capital receipt on completion of the development. Alternatively it is possible to transfer the legal interest at the outset but reserve a right of pre-emption at historic cost if the development does not proceed by a certain date. One of the benefits of such disposals is that through appropriately worded conditions or covenants, greater control can be exercised through the land transaction than through the Council's planning controls.

(ii) **Private Finance Initiatives (PFI) or PPP's**

These are another form of disposal in which the control of the land and building asset together with risks relating to availability and maintenance etc are transferred to the contractor for the length of the contract. The Council retains service use of the asset and a reversionary property interest. Disposals of property under major PFI/PPP or other similar public sector works contracts are subject to European Procurement rules.

(iii) **Transfer to the community**

The Council has a separate Community Asset Transfer Policy that details the basis on which it will consider transfers to community groups and the terms that apply to such transfers.

## **6 Notification of Ward Members**

- 6.1 The Estates Section must notify Ward Members and the Area Manager that the asset is surplus to the needs of the Council and is being considered for disposal. Ward Members will be given 14 days to respond and suggest alternatives.
- 6.2 If Ward Members suggest alternatives they must be explored and if necessary a business case developed to support the alternative. If no valid business case has been put forward for an alternative use for the asset then the process for disposal should continue unless the Ward Member is still not in favour of the disposal. In such cases Estates will report the matter to the relevant Area Committee seeking permission to dispose.

## **7 Property holding costs**

- 7.1 Once a property is deemed to be surplus to the requirements of a service its associated revenue costs for business rates/council tax, utilities etc become the responsibility of the Estates Section of Property and Facilities Management (within Infrastructure Services) or for assets that are occupied at that time, revenue costs should become the responsibility of the Estates Section once the property becomes vacant. On the property being deemed surplus (or becoming vacant, if later) the budget for these elements must be transferred from the relevant service to Estates. The budget for repairs and maintenance will already be held within Property and Facilities Management.

## **8 Data collection**

- 8.1 A corporate schedule of the use and allocation of all property is maintained in accordance with CIPFA guidance on local authority asset registers, as contained in the Code of Practice on Local Authority Accounting in the United Kingdom. All Council owned property (other than Common Good property) is held within the asset register. Surplus property is separately identified in the register. The register is updated annually. In addition, P&FM maintains an Asset Disposal Schedule. This lists all property that is currently identified as surplus, together with any properties that have been identified as being potentially surplus. For example, when a facility is being considered for replacement, the existing facility will be listed as potentially surplus.

## APPENDIX 2

### PROPERTY DISPOSAL PROCEDURE

#### **1 Introduction**

- 1.1 The purpose of this document is to set out a disposal process following a property being declared surplus and suitable for disposal (see Asset Management Procedure).
- 1.2 Some categories of property may be disposed of by means other than exposure to the open market. Consideration of whether the property to be disposed of falls into one of these is required before marketing the property.

#### **2 Matters to be considered prior to disposal**

- 2.1 Listed buildings/buildings in Conservation Areas
  - 2.1.1 Prior to disposal on the open market, the Council will give The North East Scotland Preservation Trust (NESPT) the opportunity to purchase any surplus listed building that appears on the Listed Buildings at Risk Register, or that requires significant investment. NESPT will be required to submit details of its proposals for the building to achieve a viable future use within 28 days if possible. The rationale behind this is that NESPT can secure funding that is not available to local authorities and should take a lead role in preserving buildings that contribute to local heritage. NESPT should be informed that the building is surplus to Council requirements as soon as all services have informed Estates that they do not require the property.
  - 2.1.2 Where the NESPT does not wish to acquire a listed building the Council will seek to ensure that any person/body wishing to acquire the building is in a position to restore the property and is able to fulfil its future responsibilities as the owner of a listed building.
  - 2.1.3 Similar assurances will be sought when the Council is disposing of a building located in a Conservation Area and that building requires significant investment. Again, if the Council is seeking to lease a listed building (or building in a Conservation Area) on a repair and maintenance lease it should only do so if the tenant can assure the Council that the tenant is able to maintain the building to the required standard. In either case the aim is to avoid the building falling into disrepair and then the lessee/owner approaching the Council for financial assistance to carry out the work.

2.1.4 On occasions the Council may wish to use Compulsory Purchase powers to acquire a listed building that is no longer being effectively maintained by the owner. Before seeking to acquire such buildings under CPO the Council will advertise its intention to do so and will invite interested parties to submit their proposals for the building together with financial evidence of their ability to implement these. The Council will then enter an agreement with the preferred party to transfer the building following successful CPO. This process minimises the risk to the Council. As part of the process the Council will make NESPT aware of its intentions and give it an opportunity to submit proposals.

## 2.2 Use by other public bodies

- (i) As a member of the North East Scotland Joint Public Sector Property Group, the Council has adopted the North East of Scotland Integrated Property Strategy. One aspect of this is that participating public sector partners have entered into a "Surplus Property Protocol" which affords them first refusal to acquire a surplus property prior to it being placed on the open market. Partners are given 21 days to express an interest in a surplus property. The protocol dictates that transfers of property will be at market value.
- (ii) Properties not to be circulated include development sites on industrial estates, sales of small areas of amenity land, property which has previously been the subject of a decision by either a Committee or the Management Team and for which a course of action has already been approved, sales of houses under right to buy legislation, sales to statutory undertakers for infrastructure purposes, properties being sold under pre-emption clauses, property which is the subject of a Compulsory Purchase Order.

## 2.3 External consents

2.3.1 External consents are required to effect the sale of certain types of properties e.g. common good, schools, playing fields, land held in trust etc. It can take some considerable time to obtain these consents. The asset disposal process requires that the Estates Section should establish whether there are any constraints on the site, title conditions, legal burdens, planning, statutory authorities, etc at the earliest point possible.

2.3.2 Irrespective of the intended sale price, all proposed Common Good disposals must be approved by the appropriate Area Committee.

2.3.3 Ownership in a trustee capacity must be carefully considered as a disposal may require the consent of the Charity Commission and/or the Court of Session. Disposal of property held by Education under the Education Act will need to be considered carefully as there may be a requirement to offer the property back to the original owner if no longer required for educational purposes.

## 2.4 Fund within which property is held

2.4.1 The Estates Section will clarify whether the property was acquired under an act which determines it be an asset held on the Housing Revenue Account, General Fund or as Common Good.

## 2.5 Financial constraints

- 2.5.1 Further checks are implemented to establish whether there are any financial constraints, such as the property having been the subject of assistance funding in the past, that necessitate the repayment of grant monies.

## 2.6 Properties acquired under compulsory purchase

- 2.6.1 Scottish Government recommends that where a property was purchased by or under the threat of compulsory purchase, the “Crichel Downs” rules should apply. Essentially this requires an offer to sell the property back to the previous owner. The provisions of Crichel Down and the Council’s requirements to adhere to best value will be examined in each case.

## 2.7 Planning permission

Where appropriate, town planning investigations are implemented to establish the authorised use and the potential for valuable alternative uses of the property. For some larger sites a reallocation of use through the Local Development Plan may be required before a more beneficial use for the asset can be successfully promoted, e.g. change of use from community to say industrial. For some buildings or smaller sites the Council may apply for planning permission for an alternative use to enhance the value of the asset before sale.

# 3 **Disposal of the property**

## 3.1 Valuation

- 3.1.1 A valuation and appraisal of the property for disposal must be undertaken at the earliest opportunity and continually reviewed throughout the disposal process. In many cases valuations can be carried out in-house, however with regards high value cases or where it is decided to negotiate a disposal to a single party, rather than offer the property on the open market, it may be appropriate to obtain a valuation from a third party.

## 3.2 Asset Disposal Schedule

- 3.2.1 The Estates Section maintains an Asset Disposal Schedule providing an up-to-date list of Council owned assets that have been declared surplus or have been identified as possibly being subject to future disposal.

## 3.3 Options for disposal

- 3.3.1 These could include:-

- (i) Open market
- (ii) Sale by Private Bargain
- (iii) Informal Tender
- (iv) Formal Tender
- (v) Auction
- (vi) Special purchaser

3.3.2 Any of the above methods could be used depending on circumstances. A flexible approach must be maintained in order to deal with the variety of property disposed of by the Council and the state of the property market at any given time.

### 3.4 Timing of disposal

3.4.1 This needs to be considered against the background of the Council's budget and capital programme requirements, current state of the market, local and regional planning framework and potential for property values to change in the future. Consideration should be given to obtaining planning consent, particularly where there is potential for redevelopment or investment in the property prior to disposal to enhance its value.

3.4.2 When a disposal of a surplus property is not appropriate due to market conditions, a temporary use should be found in order to mitigate void costs and improve security. Any external letting should be by way of a short term lease in order that vacant possession can be easily obtained.

### 3.5 Marketing Strategy

3.5.1 An appropriate marketing strategy should be developed for use by either the in-house or external consultants who will undertake the disposal.

3.5.2 Each property will be considered on its own merits and a marketing strategy will be developed to ensure that each asset maximises its maximum capital receipt whilst taking into account economic development and regeneration considerations. In addition to appropriate press promotion, increased use of web-based facilities, e.g. Aberdeen Solicitors' Property Centre, will be considered to ensure that maximum exposure to potential purchasers/tenants is achieved.

### 3.6 Disposing of the asset

3.6.1 In disposing of the asset Estates follows the detailed procedure set out in the Estates Office Manual Section B (Procedure for the Disposal of Property).

3.6.2 Depending on the type of asset, location, price, condition etc. the time taken for disposal may vary considerably and Estates should review the disposal strategy adopted for each asset on a regular basis, especially where there is a lack of interest in the asset.

3.6.3 If an asset has not generated sufficient interest or has been on the market for some time, officers consider whether to put the property to auction.

3.6.4 If auction is determined the most appropriate form of disposal, Estates confirms whether the reserve price to be set is above £60,000. If this is the case, the appropriate Area Committee approval should be obtained to set the reserve, below which the property cannot be sold. If the reserve price is to be set at less than £60,000, officers will notify Ward Members and the Area Manager of the intention to put the property to auction and of the reserve price.

- 3.6.5 If the asset is sold at Auction, at the set reserve price or above, officers will notify Ward Members of the sale.
- 3.6.6 For assets that generate sufficient interest, a closing date is generally set. Any party that has noted an interest in the asset, is advised of the closing date and asked to submit their best and final offer.
- 3.6.7 Where an offer over £60,000, that is considered to be acceptable, is received after a property has been exposed to the market for a suitable period and/or a closing date has been set the matter is referred to Area Committee. The report sets out the offer(s) received, the name(s) of the potential buyers, their proposed use for the asset and officer recommendations. The Committee decides the appropriate action to be taken.
- 3.6.8 For assets being sold at below £60,000 the Scheme of Delegation states that the matter shall be determined by appropriate officers in exercise of their delegated powers. In such cases a bulletin is prepared to inform Members of the outcome of the sale.
- 3.6.9 Officers then instruct Legal & Governance to formally conclude the disposal.
- 3.7 Capital receipts from disposals are allocated as follows:-
- (i) General Fund - to the Capital Receipts line in the Capital Plan.
  - (ii) Housing Revenue Account – to the HRA Account
  - (iii) Common Good – to the appropriate Common Good Account

#### **4 Additional consents required following agreement of sale terms**

##### **4.1 Disposal at less than best consideration**

Other than in relation to Community Asset Transfers, any proposal to dispose of property at less than market value is a matter reserved for decision by the Policy and Resources Committee, or in the case of Housing Revenue Account property, the Social Work and Housing Committee.

##### **4.2 Disposals from or to the Housing Revenue Account (HRA)**

All disposals from, or acquisitions by, the HRA require the approval of Scottish Government whether at full market value or otherwise. This includes disposals from the General Fund to the HRA and vice versa.

##### **4.3 Disposals of Common Good property**

Common Good Properties require a Common Good Order to be obtained prior to sale. HRA properties require the approval of Scottish Government before sale. All proposals to dispose of Common Good property will be referred to Area Committee, no matter the level of consideration.

**5 Minimum sale price**

- 5.1 Having regard to the costs incurred by the Council in selling land following recent legislative changes the Council's minimum price at which it will sell property is £5,000.

**6 Ownership enquiries**

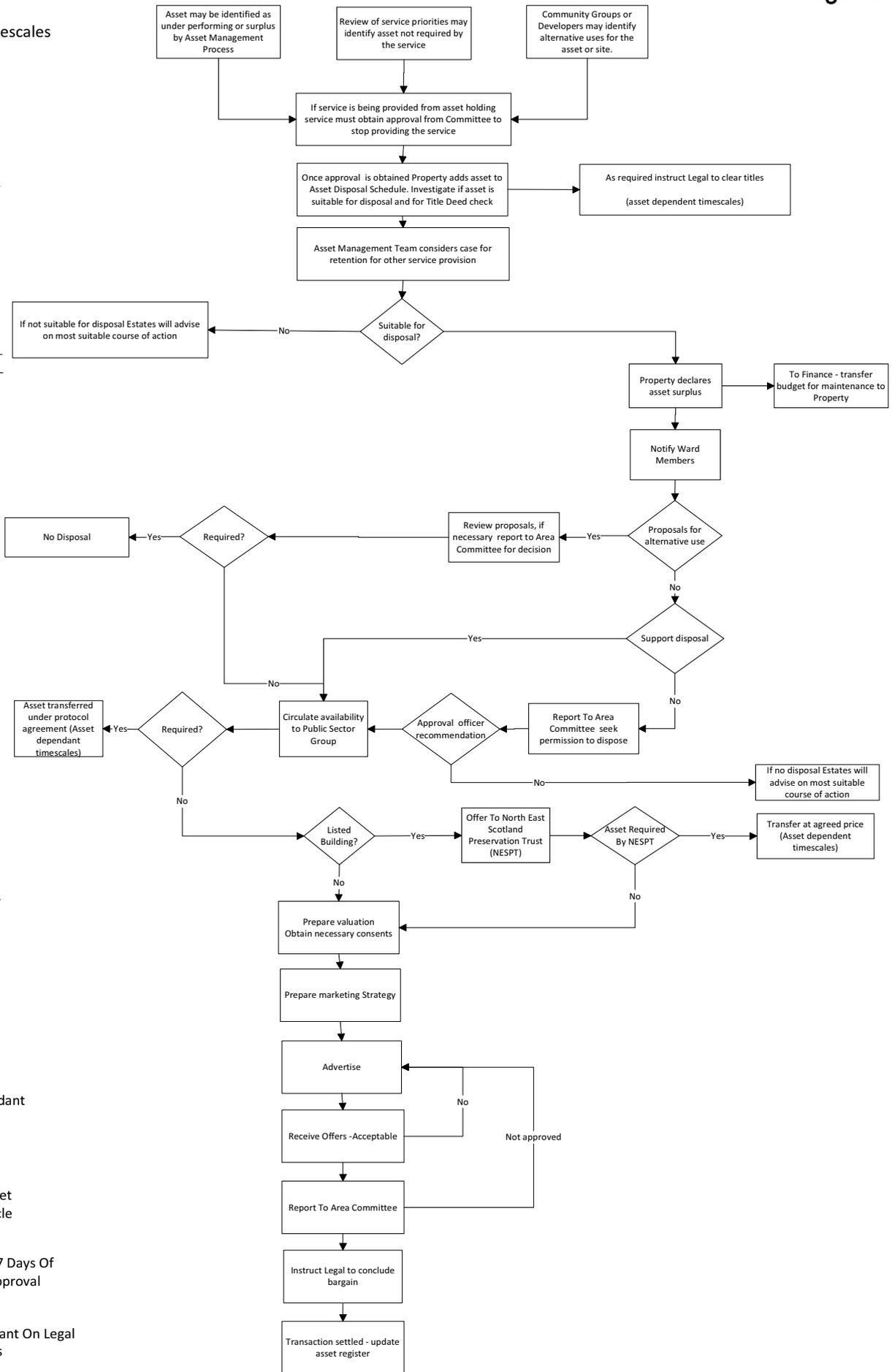
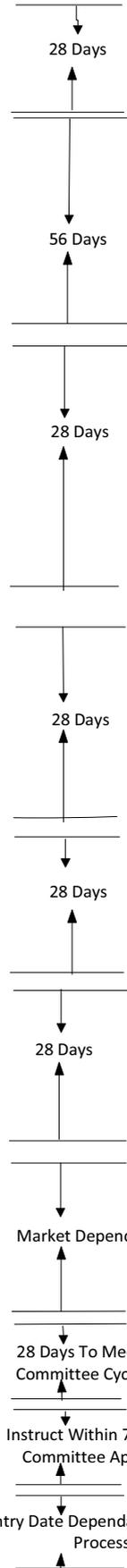
- 6.1 To reflect the cost incurred by the Council in responding to ownership enquiries the Council will charge a fixed amount of £750 in respect of each plot on which an enquiry is made.

**7 Community Asset Transfer**

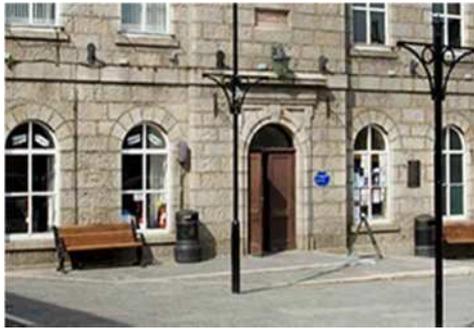
- 7.1 The Community Asset Transfer Policy states that some assets are not suitable for transfer, including those that have potential to generate significant capital receipts if sold on the open market. For these purposes "significant" will be defined as £100,000. It will be possible for a rejection on such grounds to be appealed under the CAT Policy. For an appeal to succeed it will be necessary to demonstrate that special circumstances apply that outweigh the general presumption that such properties are not suitable for transfer under the CAT Policy.

### Disposal Procedure and Timeline

#### Indicative Timescales



## Community Asset Transfer (CAT) Policy Statement



Aberdeenshire Council is committed to community asset transfer where that will bring benefits to communities and contribute towards achieving the Council's aims and objectives.

The Council recognises that community asset transfer can be a valuable part of supporting and sustaining local communities in Aberdeenshire and it wishes to ensure council assets can be owned and managed by the people who regularly use them.

The Council is fully committed to using council assets to form long-term partnerships with voluntary and community organisations that meet the Council's criteria, in order to create stronger, more cohesive and more sustainable communities.

The Council will react positively to all enquiries from voluntary and community organisations concerning the potential for community asset transfers and will support such groups when required to develop business plans and to put in place arrangements for managing the assets.

The Council will put in place a transparent process for community asset transfer and will adopt an agreed method of assessing requests.

The Council will consider transfer of an asset to any voluntary and community organisation (VCO) that makes a credible application (supported by an appropriate Business Plan) and demonstrates that it has the skills and capacity to manage the asset.

Whilst transfer of full responsibility for an asset either through a long term lease or outright ownership are the preferred options, the Council will consider transferring management responsibility for an asset to a community group whilst maintaining some revenue funding in support of its operation where there is merit in doing so.

Whilst fully supporting the principle of asset transfer this policy also recognises that some assets must remain under Council ownership and management in order to support delivery of essential services, continue to provide an income stream to the Council or support economic activity in an area. In addition some assets may have title conditions or burdens on them making them unsuitable for transfer whilst others may be required by the Council because of their potential to generate significant

capital receipts if sold on the open market. The Council will consider as part of the initial assessment of an application whether an asset should be retained by the Council or could be transferred.

### **Description Of Asset Covered By Policy**

The policy applies to land or building in the ownership of Aberdeenshire Council that are deemed to be under performing or surplus to requirements as well as to "community amenity assets such as town halls, village halls, community centres, bowling greens, public conveniences, country parks, etc.

Not all Council assets will be considered suitable for transfer. Assets that are required for the delivery of essential services or are generating an income stream for the Council will not be considered suitable for transfer.

Those assets which have the potential to generate significant capital receipts **defined as in excess of £100,000** to help fund the Council's ambitious capital programme will not be considered suitable for transfer either for lease or sale at below best consideration.

Assets which have title burdens or conditions on them may also not be suitable for transfer. For suitable assets potential transfers will be considered on a case-by-case basis against the criteria outlined in this policy.

### **Types Of Voluntary and Community Groups Covered By Policy**

For the purpose of this policy a VCO will have the following characteristics:-

- It is formally-constituted;
- It has sound long-term management and governance arrangements and/or the necessary expertise and experience;
- It has its own decision-making system and accountability to independent trustees or its own members or constituents;
- It does not distribute any surplus to owners or members but applies it to serving its basic purpose (excludes commercial concerns but includes organisations which charge users or the public for services or undertakes contracts for the Council);
- It is non-political and is not engaged in supporting candidates for political office
- It has an element of involvement of volunteers.

The Council will consider transfer of assets to long established, stable and secure formal groups and will also consider transfers to newly formed VCOs provided they can demonstrate they have the necessary expertise and experience to manage the asset and have a sound business plan in place.

