

REPORT TO BANFF & BUCHAN AREA COMMITTEE – 25 JANUARY 2022

DRAFT REVISED SURPLUS PROPERTY POLICY

1 Executive Summary/Recommendation

1.1 This report seeks comments from the Committee on the attached Draft Revised Surplus Property Policy to be considered by Business Services Committee at its meeting on 21st April 2022.

1.2 The Committee is recommended to:

1.2.1 **Provide comments to Business Services Committee in respect of the Draft Revised Surplus Property Policy provided at Appendix 1 to this report.**

2 Decision Making Route

2.1 The proposed revised policy replaces the Surplus Property Policy approved by Policy & Resources Committee on 9th June 2016.

2.2 At a workshop on 10th May 2021 Members of Banff & Buchan Area Committee were given the opportunity to comment on what changes they would like to see to the existing Surplus Property Policy. The issues raised are addressed in the Discussion below.

3 Discussion

3.1 Having been in place since June 2016, the Council's existing Surplus Property Policy is due for review. As part of the review process workshops were held with all 6 Area Committees to seek views on changes that Members would like to see in a revised policy.

3.2 At the workshops Members took the opportunity to express concerns about specific cases where they felt disposals could have been handled better, but comments on proposed changes to the Policy were relatively limited.

3.3 Comments by Members of Banff & Buchan Area Committee are highlighted below, together with responses as to whether any Policy changes have been introduced to address these comments.

3.4 3.4.1 Comment: It would be helpful if the Policy was more specific about adding properties to the Asset Disposal Schedule at an early date.

Comment: A process should be included to advise other Services of the potential availability of a property sooner.

Response: A combined response is provide to these 2 comments. A property is added to the Asset Disposal Schedule as soon as the Property and

Facilities Management Service (P&FM) is made aware that there is any prospect it may be surplus to the requirements of a Service in the future. All Services are provided with access to the Asset Disposal Schedule and are usually aware of potentially available properties well in advance of them being formally declared surplus. In order to attempt to reduce delays in P&FM being made aware, the requirement for Services to carry out a Strategy Review and for P&FM to challenge the need for Services to retain properties have been made more prominent in the Draft Revised Surplus Property Policy (Items 5.3.1 and 5.3.2 in the Draft Revised Surplus Property Policy).

3.4.2 Comment: An Expression of Interest by a Community Group in a property should prevent its disposal until the matter is dealt with.

Comment: Time should be allowed for Community Groups to finalise their proposals before a property is marketed.

Response: A combined response is provide to these 2 comments. The existing policy and the Draft Revised Surplus Property Policy follow the requirements of the Community Empowerment (Scotland) Act 2015 in preventing disposal of a property once an Asset Transfer Request is received, except in the circumstances set out at '6. Asset Transfer' within the Draft Revised Surplus Property Policy. Once an Asset Transfer Request is made a statutory timescale applies to resolving the Asset Transfer Request. This sets a timeframe that addresses the potential delay in both the applicant and the Council dealing with the Asset Transfer Request. Any delay in disposing of the property increases the chance that the property will deteriorate. Additionally, holding costs will be incurred whilst the property remains vacant and unsold. No particular timescale applies to an Expression of Interest. Often the period between an Expression of Interest being received and a competent Asset Transfer Request being received is significant. Officers would recommend against delaying disposal of a property in such circumstances where the timescale is open ended. No changes to the existing policy are proposed in relation to these comments.

3.4.3 Comment: What should be done with a property that is in poor condition that we have tried to sell or market.

Response: It is the view of Officers that this is a practical consideration, rather than one of policy. The potential solutions for such properties could vary greatly and require to be considered on a case by case basis, rather than based on a fixed policy. No changes to the existing policy are proposed in relation to this comment.

- 3.5 The subject of advising Community Groups of the potential availability of a property before it is declared surplus was raised by other Area Committees. This would raise questions as to which groups should be advised and at what stage. Officers are sympathetic to the general intention of such proposals but can foresee practical difficulties in addressing them under the Surplus Property Policy. The potential to address the needs of Community Groups by way of asset transfer of surplus Council properties is one that may be best addressed by the Asset Transfer Policy that is also currently being reviewed. It is the view of Officers that a procedure for Community Groups to register an identified need for a property that could potentially be addressed by the

Council's existing portfolio or a property being declared surplus to the Council in future would be more appropriate than Community Groups trying to fit a need to whatever property the Council happens to declare as surplus in the future. In other words, it should be a case of a use looking for a building, rather than a building looking for a use. This would also potentially address the short timescales that can sometimes be encountered between a property being declared surplus and being exposed to the market. Advance notice of the need the Community Group is seeking to address would potentially lead to better matching between the need and an appropriate property.

- 3.6 It will be noted that at 5.4 within the the Draft Revised Surplus Property Policy it is stated that 'The principal purpose of the Property Disposal Procedure is to raise funds to support investment in assets as identified by the Asset Review Procedure. The funds raised will be used to support the Capital Plan. In addition, the disposal of assets will generate savings in running/holding costs, thereby reducing the Council's Revenue Budget'. It is recognised by Officers that transferring properties to Community Groups through the Asset Transfer process can also bring benefits to the Council and to those Community Groups.
- 3.7 Provided as Appendices 2 and 3 to this report are proposed revised Asset Review and Property Disposal Procedures. It is important to note that whereas these documents are referred to within the Draft Revised Surplus Property Policy, they do not form part of the Draft Revised Surplus Property Policy. They are Procedure documents, rather than Policy documents and therefore will be subject to review under the requirements for such documents. Therefore, they will potentially be reviewed independently of the Policy Review Procedure in future. This is in line with current guidance. These documents have been provided for information and approval to them is not being sought from Business Services Committee.

4 Council Priorities, Implications and Risk

4.1

Pillar	Priority
Our People	Education Health & Wellbeing
Our Environment	Infrastructure Resilient Communities
Our Economy	Economy & Enterprise Estate Modernisation

Whereas it is clear that this report most directly helps deliver the Strategic Priority 'Estate Modernisation' under the Pillar 'Our Economy', it undoubtedly impacts significantly on all the strategic priorities by supporting all services in fulfilling their objectives within the Council Plan, by providing appropriate

properties within our communities, by supporting the provision of more energy efficient properties, by supporting the Capital Plan and by reducing the Council's revenue spend where appropriate.

4.3 The table below shows whether risks and implications apply if the recommendation(s) is (are) agreed.

Subject	Yes	No	N/A
Financial	X		
Staffing		X	
Equalities and Fairer Duty Scotland		X	
Children and Young People's Rights and Wellbeing		X	
Climate Change and Sustainability		X	
Health and Wellbeing		X	
Town Centre First		X	

4.4 The application of a revised Surplus Property Policy will potentially have a significant impact on the Council in financial terms. For example, a policy that states 'The principal purpose of the Property Disposal Procedure is to raise funds to support investment in assets as identified by the Asset Review Procedure. The funds raised will be used to support the Capital Plan. In addition, the disposal of assets will generate savings in running/holding costs, thereby reducing the Council's Revenue Budget' will potentially be quite different from a policy that states a different principal purpose. Whereas, as mentioned above, the policy will impact on all of the Council's priorities, this will be through the application of the policy via the various projects that will be reported on individually, rather than by the introduction of the policy itself.

4.5 The screening section as part of Stage One of the Integrated Impact Assessment process has not identified the requirement for any further detailed assessments to be undertaken. Whereas specific projects that will be subject to the revised policy may require assessments to be carried out, the policy itself does not. For example, whereas the sale of a particular property may have an impact on a town centre or people with protected characteristics, it would be when considering the sale of that property that it would be appropriate to carry out an assessment, not when putting the policy in place. The range of properties that may be affected by this policy is too wide to put in place policy measures addressing these elements.

4.6 The following Risks have been identified as relevant to this matter on a Corporate Level ([Corporate Risk Register](#)):

- ACORP001 Budget Pressures
- ACORP006 Reputation management (including social media)

4.7 The following Risks have been identified as relevant to this matter on a Strategic Level [Business Services Directorate Risk Register \(aberdeenshire.gov.uk\)](#):

- BSSR004 Our assets, property and land are managed to the best financial effect, supporting delivery of our priorities and service ambitions in the medium to long term

5 Scheme of Governance

5.1 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report. Their comments are incorporated within the report and are satisfied that the report complies with the Scheme of Governance and relevant legislation.

5.2 The Head of Roads and Infrastructure has also been consulted, particularly in relation to the revised policy superseding the Policy on the Disposal of Public Open Space and Amenity Ground. His comments are incorporated within the report.

5.3 The Committee is able to consider this item in terms of Section B.1.2 of the List of Committee Powers in Part 2A of the Scheme of Governance the Committee is being asked to consider, comment on, make recommendations to Business Services Committee on a policy which impacts its Area.

RITCHIE JOHNSON
Director of Business Services

Report prepared by John Gahagan, Estates Manager
Date 14 January 2022

List of Appendices – Appendix 1 – Draft Revised Surplus Property Policy
 Appendix 2 – Draft Revised Asset Review Procedure
 Appendix 3 – Draft Revised Property Disposal Procedure

APPENDIX 1

DRAFT REVISED SURPLUS PROPERTY POLICY

1 POLICY STATEMENT

- 1.1 The principal purpose of the Council's Surplus Property Policy is to assist in ensuring that the Council has the right properties in the right place at the right time to support Services in providing a high standard of service to the people the Council serves. To this end, the Policy requires that the Council has in place an appropriate Asset Review Procedure and an appropriate Property Disposal Procedure. For the avoidance of doubt, any reference in this Policy to 'property' includes buildings and/or land.
- 1.2 Aberdeenshire Council maximises 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, the Council will implement the delivery of enhancements or replacements, make provision for service delivery from alternative properties and declare surplus properties that are no longer required for service delivery or are under performing.

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 Policies and Documents

3.1.1 This Policy reflects the following:-

- (i) Corporate Asset Management Plan 2015-2020 (as approved by Policy and Resources Committee on 15 January 2015), which is in the process of being replaced by a new Strategic Asset Plan
- (ii) Community Asset Transfer Policy (as approved by Policy and Resources Committee 9 June 2016) (currently under review)
- (iii) The Community Empowerment (Scotland) Act 2015

3.2 Previous Documentation

- 3.2.1 This Policy replaces the previous Surplus Property Policy approved by Policy & Resources Committee on 9 June 2016, which included an Asset Review Procedure and a Property Disposal Procedure. These Procedures now form separate documents.
- 3.2.2 This Policy also replaces Policy on the Disposal of Public Open Space and Amenity Ground, the date and origin of which is unclear, although it appears to relate to some historic principles adopted by Landscape Services in

considering land disposals (it has not been reviewed or rescinded in the past decade). The general principles of this document are included in this Surplus Property Policy and for the sake of clarity Officers consider it appropriate that the Surplus Property Policy should supersede the Policy on the Disposal of Public Open Space and Amenity Ground.

4 PRINCIPLES

- 4.1 This Policy is adapted to reflect Scottish legislation, Chartered Institute of Public Finance and Accountancy guidance and the strategic requirements of Aberdeenshire Council.
- 4.2 All property is held centrally and managed as a corporate resource. Consequently, key property decisions must be taken at a strategic level rather than at an individual Service level. The Council adopts a partial Corporate Landlord model. As such, the Property & Facilities Management (P&FM) Service provides Architectural, Quantity Surveying, Engineering, Estates, Asset Management and Facilities Management services in-house. This Service manages the Council's operational, investment and surplus property portfolios.
- 4.3 The Estates team within P&FM 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 asset management approach underpins the Council's requirement to identify properties that are surplus to the requirements of the Council through an Asset Review Procedure and the disposal of these properties through a Property Disposal Procedure. The management of playing fields, open space and amenity ground is generally not managed by P&FM, but it is included in the Asset Review process. Any acquisition or disposal of such property would be carried out by P&FM.

5 POLICY PROVISIONS

- 5.1 The Council will have in place an Asset Review Procedure and a Property Disposal Procedure.
- 5.2 The overall route a property will follow from being held for operational purposes by a Service to eventual disposal is as follows: -
 - 5.2.1 Property is in use – The continued use of the property is considered as part of the Asset Review Procedure.
 - 5.2.2 An Intention to Declare Surplus is issued by the Service – In the event the Service concludes that the property is, or will be, no longer required to support service delivery, it will issue an Intention to Declare Surplus to the Property & Facilities Management Service (P&FM). On receipt of an Intention to Declare Surplus P&FM, in conjunction with Legal & People, will determine whether there may be any unintended consequences of declaring the property as being surplus to the Service. If it is determined that it is appropriate for the Service to declare the property as surplus, Estates will advise the Service that this is the case.
 - 5.2.3 A Surplus Property Declaration will be issued by the Service – Either at that time, or, if later, when the property ceases to be used by the Service, the Service will transfer the budget for the property to Estates. Once the budget has been transferred to Estates, the Surplus Property Declaration will take full effect and the property will become the responsibility of Estates.

- 5.2.4 The property will be declared surplus to the requirements of the Council – Estates will consult with Ward Members, the Area Manager, other Services and Partner organisations to determine whether there is an alternative use for the property, including, if appropriate, future strategic requirements. If no alternative use is identified, the Property Disposal Procedure will be followed.
- 5.2.5 The property will be sold – Assuming a sale on appropriate terms is identified the property will be sold under delegated powers or after approval by the appropriate Committee.
- 5.3 The process by which the Council reviews its assets will be set out in the Asset Review Procedure.
 - 5.3.1 Each Service within the Council will produce a strategy that identifies the assets required to fulfil its objectives within the Council Plan (and its Strategic Priorities) and the Aberdeenshire Community Plan (and its community planning themes), as well as meeting the need for additional community infrastructure within areas of population growth.
 - 5.3.2 The P&FM Service will regularly challenge the need for services to retain properties used by them that fall within the definition of under-performing assets.
 - 5.3.3 The P&FM Service will collect Core Fact data covering Property Assets. This Core Fact data will include details of 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 will be refreshed and under-performing assets identified. The Core Fact data will be held in a corporate schedule 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. This register will detail the use and allocation of all Council owned property (other than Common Good property). Surplus property will be separately identified in the register. The register will be updated annually.
 - 5.3.4 A potential outcome of the Asset Review Procedure is that a requirement will be identified for investment in existing or new properties. This will result in a requirement for associated projects to be added to the Capital Plan.
 - 5.3.5 A further potential outcome of the Asset Review Procedure is that properties that have been reviewed will be declared surplus to the requirements of the Council. This may or may not be linked to the identified requirements for investment in existing or new properties.
 - 5.3.6 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.
 - 5.3.7 Some categories of property are not considered suitable for sale.

(i) Industrial and other leased properties

The main purpose of the Council's property holdings is to support the local economy by providing suitable premises for businesses operating in the area. The revenue income from these properties supports their continued provision. The long term revenue income of the Council requires to be preserved or increased. Any opportunity to contribute to economic development and 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 contributing to economic development and producing income unless Officers are of the view that it is in best interests of the Council to dispose of the property. This includes where, for example, a substantial capital receipt could be generated, or an opportunity exists to facilitate this via partnership with adjoining owners or developers, which would allow other economic development opportunities and offsetting the loss of revenue income. Properties that are subject to the general presumption should not be declared as surplus to the requirement of the Council. The decision as to whether an individual property is subject to the general presumption will be delegated to the Head of Finance, after consultation with the Head of P&FM.

(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 the Planning Service will be consulted, where appropriate, for views on the level of provision and the suitability of replacement facilities. For the avoidance of doubt, individual parcels of amenity land that are not part of a wider allocation of open space within a development will not be subject to the general presumption. Properties that are subject to the general presumption should not be declared as surplus to the requirement of the Council. The decision as to whether an individual property is subject to the general presumption will be delegated to the Head of P&FM, after consultation with the Head of Roads, Landscape Services & Waste and/or, if appropriate, the Head of Life Long Learning and Leisure and the Head of Planning and Economy.

5.4 The process the Council adopts in disposing of surplus property will be set out in the Property Disposal Procedure. The principal purpose of the Property Disposal Procedure is to raise funds to support investment in assets as identified by the Asset Review Procedure. The funds raised will be used to support the Capital Plan. In addition, the disposal of assets will generate savings in running/holding costs, thereby reducing the Council's Revenue Budget.

5.4.1 P&FM will maintain an Asset Disposal Schedule. This will list all properties that are 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.

5.4.2 Other than in relation to Asset Transfers under the Community Empowerment (Scotland) Act 2015, any proposal to dispose of property at less than market value is a matter reserved for decision by the appropriate Policy Committee.

5.4.3 Common Good properties require a Common Good Order to be obtained prior to sale. All proposals to dispose of Common Good property will be referred to Area Committee, no matter the level of consideration.

5.4.4 Capital receipts from disposals will be 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

6 ASSET TRANSFER

This policy is aligned to the Community Asset Transfer Policy (currently being reviewed). It clarifies that, once an Asset Transfer Request is received in respect of a property, that property will not be sold or leased to anyone else until the Asset Transfer Request is disposed of, with the following exception. The Community Asset Transfer Policy confirms that where the Council has already started to market an asset for sale or lease; entered into negotiations to transfer or lease the land; or proceeds further with a proposed transfer initiated before an Asset Transfer Request was made, the Council will continue this process and the asset may be disposed of prior to the conclusion of the Asset Transfer Request process.

7 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 significant. 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, most enquiries require significant time and effort (particularly from the Legal & People Service) to provide a response. To reflect the cost incurred by the Council in responding to ownership enquiries the Council will charge a fixed amount, to be determined by the Head of Legal & People, in respect of each plot on which an enquiry is made. In many cases ownership of property in Scotland can be obtained by contacting ScotLIS, Scotland's Land Information Service.

8 REVIEW

Unless changes in legislation, Council Priorities or circumstances dictate otherwise, this Policy will be reviewed when it has been in place for a period of 5 years.

APPENDIX 2

ASSET REVIEW PROCEDURE

1 Introduction

- 1.1 Asset Management is the mechanism to support decisions made in relation 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 a strategy that identifies the key assets required to fulfil its objectives within the Council Plan (and its Strategic Priorities) and the Aberdeenshire Community Plan (and its community planning themes) , as well as meeting the need for additional community infrastructure within areas of population growth.
- 1.4 The Corporate Asset Management Plan approved by Policy & Resources Committee in January 2015 was 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 assets.
- 1.6 Services must review and update their Asset Management Strategies at regular intervals to ensure the validity of future requirements and investment. In addition, P&FM will work 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 Property Disposal 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 two 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 contribute sufficiently to economic development, 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) 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.
- (iii) It has no viable potential for future alternative service delivery or for regeneration.
- (iv) Its condition, suitability, sufficiency and environmental factors result in high running costs that cannot be rectified through reasonable capital investment.
- (v) A change in service delivery methods results in the property being no longer required.
- (vi) 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 & Facilities Management

3.1.1 All property is held centrally and managed as a corporate resource. Consequently, key property decisions must be taken at a strategic level rather than at an individual Service level. The Council's land and buildings are managed by the P&FM Section within Business 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 must be 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 3rd Sector Partner, to improve the asset's 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 the Property Disposal 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 Replacement facilities should be 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 by the Service, the property should be declared surplus to the requirements of the Service 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.
- (v) 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 a Service determines that an asset is surplus to its requirements it should issue an Intention to Declare Surplus to the P&FM Service. Consideration will then be given to whether there may be any unintended consequences of such a declaration, failing which the property should be declared surplus. The property will become the responsibility of the P&FM Service once its budget has been transferred to P&FM and a Surplus Property Declaration has been issued.

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 P&FM will consult with Ward Members, the Area Manager, other Services and Partner organisations to determine whether there is an alternative use for the property, including, if appropriate, future strategic requirements. If no alternative use is identified, the Property Disposal Procedure will be followed.

5.2 If a Service wishes to take on the property it will be required to provide a business case justifying this in the same manner that it would require to do if seeking to acquire a property by any other means.

5.3 If the Housing Service acquires a property previously held by another service it would be necessary for that property to be transferred to the Housing Revenue Account (HRA). This requires a 'price' to be set to identify the amount to be transferred from the HRA to the General Fund. Special provisions apply to such transfers which will be on one of the following bases i.e. 1. At market value (unrestricted use) or 2. At market value (with a restricted use, such as affordable housing) or 3. At a value that would allow a neutral impact on the HRA). Each case will be considered on its merits and the transfer value will be set by the Director of Infrastructure Services, the Head of Finance and the Head of P&FM.

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

(i) **Industrial and other leased properties**

The main purpose of the Council's property holdings is to support the local economy by providing suitable premises for businesses operating in the area. The revenue income from these properties supports their continued provision. The long term revenue income of the Council requires to be preserved or increased. Any opportunity to contribute to economic development and 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 contributing to economic development and producing income unless Officers are of the view that it is in best interests of the Council to dispose of the property. This includes where, for example, a substantial capital receipt could be generated, or an opportunity exists to facilitate this via partnership with adjoining owners or developers, which would allow other economic development opportunities and offsetting the loss of revenue income. Properties that are subject to the general presumption should not be declared as surplus to the requirement of the Council. The decision as to whether an individual property is subject to the general presumption will be delegated to the Head of Finance, after consultation with the Head of P&FM.

(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 the Planning Service will be consulted, where appropriate, for views on the level of provision and the suitability of replacement facilities. For the avoidance of doubt, individual parcels of amenity land that are not part of a wider allocation of open space within a development will not be subject to the general presumption. Properties that are subject to the general presumption should not be declared as surplus to the requirement of the Council. The decision as to whether an individual property is subject to the general presumption will be delegated to the Head of P&FM, after consultation with the Head of Roads, Landscape Services & Waste.

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.

7 Property holding costs

7.1 Once a property is declared as surplus by a service (or becomes vacant, if later) the budget for revenue costs for business rates/council tax, utilities, etc., must be transferred from the relevant service to the Estates Section of Property and Facilities Management (within Business Services). On the budget being transferred, the costs for these elements become the responsibility of 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 must be 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 3

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. Any disposal to NESPT will be in accordance with the Council's statutory duty to achieve best value.
- 2.1.2 Where 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 into 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. This will require changes to the Scheme of Delegation and the List of Delegated Powers to Officers.
- 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 regard to 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) listing on the 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 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 the level at which Officers have delegated approval in relation to disposals (the Delegation Level). 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 the Delegation Level, officers must 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 a best and final offer.
- 3.6.7 Where an offer at or above the Delegation Level, 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 must be referred to Area Committee. The report sets out the offer(s) received, the name(s) of the potential buyer(s), 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 the Delegation Level the matter shall be determined by appropriate officers in exercise of their delegated powers. In such cases a Ward Members are advised of the outcome of the sale.
- 3.6.9 Officers then instruct Legal & People to formally conclude the disposal.

3.7 Capital receipts from disposals will be 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 Asset Transfers under the Community Empowerment (Scotland) Act 2015, any proposal to dispose of property at less than market value is a matter reserved for decision by the appropriate Policy Committee.

4.2 Disposals of Common Good property

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

5 Ownership enquiries

- 5.1 To reflect the cost incurred by the Council in responding to ownership enquiries the Council will charge a fixed amount, to be determined by the Head of Legal & People in respect of each plot on which an enquiry is made.

6 Asset Transfer

- 6.1 Where the Council has already started to market an asset for sale or lease, entered into negotiations to transfer or lease the land, or proceeds further with a proposed transfer initiated before an Asset Transfer Request is made, the Council will continue this process and the asset may be disposed of prior to the conclusion of the Asset Transfer Request process. Except in the above circumstances, once an Asset Transfer Request is received in respect of a property it will not be sold or leased to anyone else until the application is disposed of.