

15. Code of Practice for Members and Officers Dealing with Property Transactions

The Need for Guidance

The sale and acquisition of property by the council will invariably have a high profile. This is partly because the property in question is often located in the heart of communities and is therefore of considerable importance to those communities.

The Plan of Proposed Disposals

The relevant Director will produce each year a plan setting out proposed disposals of property, freehold or on long leases, which are likely to reach completion within the next 12 months, and also an indication of planned disposals in subsequent years. The programme of proposed disposals will be updated in the year.

The plan of proposed disposals will appear on the Forward Plan as part of the process of setting the capital programme and be sent to the chairman of Corporate Scrutiny Committee so that Corporate Scrutiny Committee has the opportunity to consider the contents of the plan.

The plan of proposed disposals will show:

- (a) the objectives of each transaction, e.g. maximising capital receipt; delivering policy objective; etc
- (b) the proposed method of disposal, e.g. open market, restricted tender, etc
- (c) the proposed decision-maker, e.g. officer delegation or Cabinet
- (d) whether the disposal is of redundant property or to achieve some other identified policy objective

Member Decision-Making

Member decision-making should concentrate on setting the objectives, parameters and mechanisms for proposed transactions; and members, where their involvement adds value to the process, should be involved as early as possible. Reports to members will, therefore, set out:

- (a) the proposed objectives of the transaction (including alternative objectives)
- (b) the proposed method of pursuing the transaction
- (c) the circumstances in which a further report to members is necessary
- (d) proposed consultation with local members, the local community and other stakeholders (exceptionally the report will be sufficiently late in the process to set out the outcome of consultation already undertaken)
- (e) arrangements to secure the long term objectives of the sale

Where a disposal also declares property redundant or is to achieve a policy objective that is the responsibility of another Cabinet member, then any report to members will be to the Cabinet, jointly in the name of those two Cabinet members (in the case of decisions by the Cabinet).

Confidentiality

There is a presumption that both the plan of proposed disposals and reports to members will be taken in public. The exception is when, and for so long as, information contained within them would either:

- (a) prejudice the local authority or

- (b) would give an advantage to any person seeking to enter into a contract with the local authority or
- (c) would disclose information about the financial or business affairs of a person other than the local authority

The reasons for confidentiality, where these exceptions apply, will be recorded on the face of the report.

Urgency

Where, in the opinion of the Cabinet member, it is not reasonably practicable to delay a decision on a property transaction until the transaction has appeared in a plan, other means of informing the Corporate Scrutiny Committee in advance of the decision, wherever possible, will be followed.

Where it is not possible to involve the Corporate Scrutiny Committee in advance of the transaction, then in these circumstances a record of the decision, including the reasons for urgency, will be provided to the Corporate Scrutiny Committee as soon as is reasonably practicable. The Corporate Scrutiny Committee will, by these means, be able to hold the Cabinet member to account for their judgment in relation to urgency.

Interests

The elements of the Member Code of Conduct in relation to declarations of interest applies to property transactions. Members taking decisions (or engaging in policy development or scrutiny) should consider whether the nature of the transaction, the identity of the other party to the transaction and/or the location of the property gives rise to a disclosable pecuniary, or close personal, interest. Advice on this is available from the Monitoring Officer.

Local Councillor

The elected councillor for the division where the property is located will be informed of the proposed transaction (except where genuine urgency prevents) firstly when the plan of disposals is put to the Corporate Scrutiny Committee and again, prior to any public marketing.

Town and Parish Councils

A copy of the annual plan of proposed disposals will be sent to all town and parish councils. The local council where a property transaction is proposed will be informed prior to any public marketing taking place.

Acquisitions

This code supplements existing arrangements to plan and report proposed acquisitions through the capital programme.

Where a property acquisition is proposed which, for any reason, has not appeared on the capital programme, the Corporate Scrutiny Committee will be given the opportunity to consider the proposal, or if genuine urgency prohibits this, to subsequently consider the acquisition.