



Department for  
**Communities**

An Roinn  
**Pobal**

Máinnystrie o  
**Communities**

# Department for Communities (Northern Ireland)

## Guidance for District Councils

### Local Government Disposal of Land at Less Than Best Price

**Local Government & Housing Regulation Division**

**January 2021**

## 1. BACKGROUND

- 1.1. District Councils in Northern Ireland on occasion have a business need to dispose of or lease a portion of its property or properties within their area of responsibility for a specific purpose which provides a benefit in serving the wider community.
- 1.2. Land & Property Services within the Department of Finance (DoF) have produced updated guidance for public sector organisations in a framework document called 'Disposal of Surplus Public Sector Property in Northern Ireland (October 2018)'. This document provides useful guiding principles for public sector organisations (including district councils) in the disposal of land within their area of responsibility.
- 1.3. The legislative context for councils which provides these enabling powers is provided in the Local Government Act (Northern Ireland) 1972 – Part VII - Miscellaneous Functions – Land: 96 Acquisition, etc., of land.
- 1.4. This guidance is specifically aimed to assist council staff dealing with the Disposal of Land at Less Than Best Price and the processes which should be followed for specific cases where full council have agreed to dispose of or lease a particular area of land.
- 1.5. In cases where any other land related exchange is under consideration by council Local Government & Housing Regulation should be consulted for advice on what necessary steps should be followed to bring about the desired outcome. Such cases tend to fall into one of three other categories:
  - i. Acquisitions;
  - ii. Transfer of former local council properties; or
  - iii. Transfer of land/property between public sector bodies.

## 2. INTRODUCTION

2.1. The purpose of this guidance is to set out the processes to be used when a council wishes to dispose of land without charging the prospective recipient of that land the full market value.

2.2. All references throughout this guidance to land equally apply to land, property or buildings.

2.3. All references to the disposal (of land) applies equally to the

- sale;
- leasing, letting or granting in fee farm;
- exchanging, giving or receiving money for equality of exchange;
- surrender (if leasehold); granting a licence for use for any purpose or
- for such purposes as are mentioned in the licence; or
- granting (by way of sale, lease, letting or licence) any easement, profit
- or right

in respect of the land (as per section 45 the Interpretation Act (NI) 1954).

2.4. The Community Planning & Central/Local Government Relations team within DfC's Local Government & Housing Regulation Division is responsible for the policy, administration, advice and guidance on the disposal at less than best price of council land.

2.5. All Northern Ireland local councils should adhere to this guidance with regard to their approach to the disposal of land at less than best value ("market value").

### 3. LEGAL CONTEXT

3.1. A council may acquire and hold land for the benefit of the inhabitants of its district and for the improvement, development or future development of its district.

3.2. A council must seek the approval of the Minister to dispose of any land at less than best price or at less than best rent or otherwise on less than best terms that can be reasonably obtained.

3.3. District councils are granted authority in law to dispose of land under two main pieces of legislation:

- Interpretation Act (Northern Ireland) 1954 and in particular Section 45: References relating to land; and
- Local Government Act (Northern Ireland) 1972 and in particular Section 96: Acquisition, etc., of land.

3.4. This is the legal basis on which councils may dispose of land at less than best price after Ministerial approval has been granted.

3.5. The specific wording in Section 96(5) is, “The right of a council to dispose of land shall be subject to the following restrictions—

(a) except with the approval of the Ministry, any disposal of land shall be at the best price or for the best rent or otherwise on the best terms that can be reasonably obtained”.

3.6. Section 96(5) forms the basis for district councils to provide justification for a project and that disposal is for the well-being of the district.

## 4. THE APPLICATION PROCESS

4.1. After the council has received internal approval from appropriate committee(s) and the matter has been ratified by full council, a letter of application should be drawn up covering broadly the following areas for departmental consideration.

4.2. Council applications should not be retrospective and should provide sufficient time for the department to process and seek permission from the Minister for approval.

4.3. The overall purpose of the project should be outlined, detailing the bodies involved and the benefits to the wider community. For example, it may be to expand recreation and youth services within the council area.

4.4. A standard application should be in letter form and include the following key areas of information:

- Licence agreement, Deed of Dedication, Business case or leasehold agreement, depending on the nature of the project;
- Copies of council meetings minutes where the decision was taken to proceed with the project;
- Valuation report on the land. This should have been obtained within 6 months of the “application” and be independently verified. This is an important inclusion and should not be overlooked as approval has been previously delayed due to the absence of a recent land valuation;
- Maps, where appropriate, as these are helpful in providing a visual representation of the area of land under consideration and scale etc;
- Details of the lease period; this is important particularly where a lease is for a shorter term as council may need to revisit the project seeking a renewal of the approval once it expires. If this is the case the Department will notify the council of this requirement; and
- Any other information deemed necessary and which may be unique in considering this type of application.

4.5. The entire application process should be via electronic scanning of documents and email communication. There is no need for councils to send hard copy versions to DfC. The details of each case including emails are electronically stored on the department’s storage system where access is restricted to limited numbers of staff authorised to deal with the case.

- 4.6. Upon receipt of the application, including all documentation deemed necessary to process the application, the Department will prepare a submission to the Minister, via senior management, for consideration.
- 4.7. The outcome of the application process will be communicated back to the council representative who made the original request.

## 5. CONTACT INFORMATION

5.1. Further information or enquiries regarding lands cases in general should be made in the first instance to:

Department for Communities  
Causeway Exchange  
Local Government & Housing Regulation Division  
1-7 Bedford Street  
Belfast  
BT2 7EG

By e-mail to [lghrd.secretariat@communities-ni.gov.uk](mailto:lghrd.secretariat@communities-ni.gov.uk) and marked for the attention of Piers Dalgarno.