

HUNTINGDONSHIRE DISTRICT COUNCIL

- Title:** Approval of:
- the new “Disposal of Small Land Parcels Policy”, and
 - relevant updates to the Disposals and Acquisitions Policy.
- Meeting/Date:**
- Overview & Scrutiny Panel (Performance and Customers) – 6th September 2017
 - Cabinet – 12th October 2017
- Executive Portfolio:** Executive Member for Strategic Resources
- Report by:** Head of Resources
- Wards affected:** All
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Executive Summary:

Over the past few years the Council has received numerous demands from the public for the sale of small parcels of land. The Council had no Policy in place to deal with these proposals and was relying on a procedure that was open to interpretation. Consequently, customer demand has not been managed, in fact the approach did build a customer expectation that sales would be successful without even when this was likely to be to the financial detriment to the Council.

This report recommends to the Council a specific Policy in respect of the Disposal of Small Land Parcels, as is followed at a number of other local authorities. This approach will allow the Council to effectively manage customer demand in a sustainable way and will aim to ensure that the Council achieves Best Value in the sale of such assets.

Recommendation:

The Overview and Scrutiny Panel is invited to comment on the new “Disposals of Small Land Parcels Policy” and respective updates to the Councils “Disposals and Acquisitions of Land & Buildings Policy”.

1. PURPOSE OF THE REPORT

- 1.1 To approve a new “Disposals of Small Land Parcels Policy” and respective updates to the Councils “Disposals and Acquisitions of Land & Buildings Policy”.

2. BACKGROUND

- 2.1 The Council proactively manages both its operational and non-operational estate via a programme of asset disposal and acquisition to ensure that it has the optimum mix of assets to meet its current and medium-term priorities.
- 2.2 With regard to the sale of land, this generally falls into two relatively distinct classes; land that is of substantial size which has previously supported the delivery of services and other land where the size is minimal and is residual because of other property management decisions.

Disposal of Small Land Parcels Policy

- 2.3 The Council receives numerous requests to purchase small land parcels, they are typically small open spaces and grass verges or open ground adjacent to property and in the main are a legacy of when the Council disposed of its housing stock. This has left the Council with around 500 small pieces of land.
- 2.4 Most land parcels are in residential areas and prospective purchasers are usually looking to either increase the size of their existing garden space, create space for further development (e.g. an extension or garage) or to gain access to other land. In addition, there is an increasing public awareness of the Council's holdings in respect of brownfield development sites for self-build which is also exacerbating enquiries.
- 2.5 Historically, there have been a large number of small land enquiries (in excess of 50 over the past two years) but with most being of relatively low value (three sales, averaging £3.5k per sale; with an average size of sale of 0.02 acres). The time involved in each sale is disproportionate to the return achieved.
- 2.6 All such sales are administered by the Commercial Estates Team. Prior to this report coming to Cabinet, there has not been a specific “small land sales” policy. This has resulted in inconsistent customer treatment, customer confusion and at times inconsistent advice being sought from and given to customers, members and officers. Consequently, since January there has been a moratorium on all new small land sales which has given the Team the opportunity to reorganise, manage demand and develop a sustainable Policy that will meet the Councils priorities in respect of its property holdings.

Disposal and Acquisitions Policy

- 2.7 In June 2015 (Min 14), the Cabinet approved a Disposal & Acquisitions Policy, the Policy was updated in September 2016 (Min 45) to include the sharing of sale proceeds with Town and Parish Councils. Further, the Corporate Governance Committee has undertaken an annual review of the Policy which to date has not resulted in any further changes. However, it is necessary to update the Policy as a consequence of Cabinet being asked to approve the Small Land Parcels Policy.

3. THE PROCESS FOR ADMINISTERING SMALL LAND SALES

3.1 In the past, the Council has generally looked favourably on sales of small parcels of land. As there was no Policy, what was followed was a Small Land Sales procedure. This procedure was followed for each enquiry made by a prospective purchaser but this approach had several inherent problems, including that it:

- did not effectively manage demand,
- built an expectation by the prospective purchaser that the sale would proceed,
- introduced not inconsiderable confusion in both advice sought and given to customers.

3.2 In addition.....

- The nature of land often involves people's homes and is therefore very emotive for applicants.
- Local authorities receive many Freedom of Information requests on this matter, typically to identify where disposals have taken place and for what value.
- Valuation of land is contentious. In the past various approaches to "value" have been followed including rules of thumb and on occasions external valuations; all of which can cause tensions between internal parties and between the Council and prospective purchasers.
- Potential purchasers are disappointed when there are reasons for refusal or negotiations have to be reopened when the valuation is not approved.
- Overly optimistic expectations on the level of service by the public.
- Planning no longer support informal enquiries on change of use as this is a drain on their resources.
- When members of staff or Council members are the interested party, this can cause some unnecessary complications as a consequence of mutual interest.

3.3 With regard to the Council requirement to achieve Best Value in the disposal of assets; without having readily available time recording information to hand it has not possible to determine if the Council has achieved this requirement in respect of past sales of small land parcels. However, considering the time that was involved in this activity by the current Interim Commercial Estates Manager between November 2016 and January 2016 it is fair to conclude that the Council had been committing extensive resources to this activity for marginal reward.

3.4 Also, considering the objectives of the MOSAIC programme (i.e. LEAN business processes, commercial ways of working; to name but two), a more simplified and sustainable approach is needed to effectively process the sale of small land parcels.

4. HOW OTHER COUNCILS DEAL WITH SMALL LAND SALES

4.1 A review of a number of local authorities who have published policy guidance on small land sales has revealed the following common themes (further detail is shown in **Appendix 1**):

- Where published, many Councils have a clear and published approach to small land sales with consideration being given only to disposals meeting set criteria.
- There is evidence of good practice to ensure this type of work does not become an unnecessary drain on resources.
- Policies are transparently clear to the public.

4.2 However, what these policies do not attempt to tackle is to effectively manage demand. Currently, HDC's approach and those of other Councils is to effectively give residents a perceived "right" to make unsolicited applications for small pieces of land which builds an expectation with residents that sale applications will be successful. What is needed is a robust approach that manages the expectations of residents and other interested parties and to manage the demand of sale of small parcels of land.

5. PROPOSED "DISPOSAL OF SMALL LAND PARCELS POLICY"

5.1 It is considered that the Disposal of Small Land Parcels Policy detailed at **Appendix 2** should effectively overcome the aforementioned issues and is therefore recommended for approval by Cabinet.

5.2 In summary, the Policy follows the main principles of the Councils Disposals and Acquisitions Policy but in addition:

- Clearly states that sales will not happen on an application basis.
- Nominations can be made for sales, these will be considered on a batch basis.
- Persons and organisations making nominations will be charged for each nomination.
- Batches of small land will be marketed together when it is economically efficient to do so.
- Successful purchasers will meet the Legal (and other ancillary costs) of both vendor and seller.

5.3 In addition, the Policy will introduce new "lower" thresholds for small land sales reflective of the smaller size of such land sales. In addition, the Policy introduces a new category of land sale where land could be transferred to another public body where there will not be any future financial liability falling on the Council.

5.4 The advantage of this Policy is that it will allow the Council to effectively manage such disposals (and associated demands/expectations) as well as help in mitigating the risk of challenge. However, it is proposed that small land sales are exempt from the 10% allocation to Town/Parish Councils.

6. UPDATES TO THE "DISPOSAL AND ACQUISITION OF LAND & BUILDINGS POLICY"

6.1 As a consequence of the recommendation to approve the Disposal of Small Land Parcels Policy, it is necessary to approve changes to the Councils "Disposal and Acquisition of Land & Buildings Policy" (**Appendix 3**). The changes are shown in **Table 1** below and Cabinet is recommended to approve these changes.

Summary of Changes to Disposal and Acquisition of Land & Buildings Policy.			Table 1
Colour code (colour highlight)	Section	Change	Reason for change
Minor change	Definition	Wording changes	General updating.
New wording	Definition	New sentence to confirm sales/acquisitions will be undertaken in the most commercially advantageous means.	Clarification of means of sale/acquisition.
New wording	Disposals Policy	Definition of what is "small land" and who can change this definition.	Clarification of definition.
New wording	Disposals Policy	To include the 'exclusion' from the 10% sharing of sale receipts to Town and Parish Councils of receipts from small land sales.	Clarification of policy.
Minor change	Governance	Wording change	General updating.

7. COMMENTS OF OVERVIEW & SCRUTINY

- 7.1 The comments of the relevant Overview and Scrutiny Panel will be included in this section prior to its consideration by the Cabinet.

8. KEY IMPACTS

- 8.1 This new Policy will allow for a leaner approach to small land sales. As well as making the administration more straight forward it will effectively manage customer demand and expectations.

9. WHAT ACTIONS WILL BE TAKEN

- 9.1 As the thresholds will be a change to the Constitution, they will have to be considered by Corporate Governance Committee and thereafter approved by Council, so the earliest the new Thresholds will be in operation will be December 2017. However, this will not be detrimental to implementing the Policy immediately because if nominations etc are made it is unlikely that any single or batch sales will be actively marketed until after the aforementioned date.

10. LINK TO THE CORPORATE PLAN

- 10.1 The Policy will support the achievement of the Corporate Plan requirement of “Ensuring we are a customer focused and service led council” by “becoming more business-like and efficient in the way we deliver services”.

11. LEGAL IMPLICATIONS

- 11.1 This policy will regulate the way that the Council deals with small land sales. What is proposed follows similar policies which other local authorities already employ and it will enable the decision making process to be uniform and transparent, as set criteria will be used to decide on applications, therefore reducing the risk of possible challenges by unsuccessful applicants

12. RESOURCE IMPLICATIONS

- 12.1 The approval of the “Disposal of Small Land Parcels Policy” (and the consequential changes to the Disposal and Acquisition of Land & Buildings) will assist the Council in effectively managing customer demand for such small land holdings.
- 12.2 Upon until January 2017, the estimated net gain to the Council following each small land disposal is considered marginal and with limited resources within the Commercial Estates Team their deployment has to be to the most commercial advantageous land and building opportunities.

13. REASONS FOR THE RECOMMENDED DECISIONS

- 13.1 To ensure that Council resources are wholly and effectively committed to meeting Council priorities; thereby having appropriate policies in place to achieve this.

14. LIST OF APPENDICES INCLUDED

- **Appendix 1** - Common Themes of Small Land Scale Policies by Other Local Authorities
- **Appendix 2** - Disposal of Small Land Parcels Policy
- **Appendix 3** - Disposal and Acquisition of Land & Buildings Policy

BACKGROUND PAPERS

None

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APPENDIX 1

Common Themes of Small Land Scale Policies by Other Local Authorities

1	<p>Where published, many have a clear and published approach to land sales.</p> <p>Consideration being given only to disposals where:</p>	<ul style="list-style-type: none"> a. There is a broader community benefit to the disposal e.g. a rationalisation of small parcels of backland open space, either rarely used or often misused. b. There are management/financial issues for the Council e.g. the land is costly to maintain. c. The applicant has extenuating circumstances e.g. there are health grounds in relation to the applicant and/or their family and the sale of the land would improve their quality of life and would not adversely affect the quality of life of others in the neighbourhood – (the applicant will need to provide evidence to support and justify the application to purchase).
2	<p>There is evidence of good practice to ensure this type of work does not become an unnecessary drain on resources</p>	<ul style="list-style-type: none"> a. Prospective purchasers are given guidance to self- help routes to find out who owns local land e.g. links to HM land Registry b. Applications for sales of land include sections to justify the needs to fulfil the requirements of 1a, b and c above c. Once established that the land in question is in Council ownership then prospective purchasers are asked to pay an estates investigation fee of typically £50 – this covers the cost of enquiries about open space, highways, planning ward councillors etc. At this stage the application may be refused and reasons given d. Subject to c. above prospective purchasers are asked to confirm they will meet legal costs (typically £750) if the matter proceeds and the valuers costs of the council appointed valuer. e. The land is valued independently by an external valuer considering factors disclosed from the estates investigation The Council provides none of its own legal or valuation advice to prospective purchasers, with the cost being recovered from the purchaser. f. The Council is obliged to obtain the best price and if it is observed that there may be more than one interested party then the Council would be obliged to advertise the property for sale on the open market. Costs are recovered from the eventual purchaser.

		<p>g. Some councils cite it is their legal obligation to advertise and publish a prospective sale, with applicants bearing the cost.</p> <p>h. A minimum price threshold to apply to all disposals e.g. £50 per sq. m (this would typically mean a minimum price of circa £5,000 for 100 sq. m)</p>
3	Policies are transparently clear to the public.	<p>a. Some councils openly use auctions or independent websites for all small land sales to demonstrate open market best price is achieved</p> <p>b. There is no legal requirement for a Council to publish a refusal to sell but some publish the reasons e.g. it judges that the personal safety for users of the remainder of nearby open space will be detrimentally affected e.g. where a narrow alleyway is created; or <input type="checkbox"/> it will result in the wholesale loss of, or detraction from the visual quality/amenity of the surrounding area. Alternatively, in such cases it may apply covenants on sales to retain the open nature of landscaped areas and/or to require the provision of certain standards of new boundary fencing, walling or delineation; or <input type="checkbox"/> it is considered that there will be detrimental impact of such sales on neighbouring properties not financially involved in, or not benefiting from the sale.</p> <p>c. Land is made available only where it has no strategic value to the council</p> <p>d. Some councils publish their minor disposals as those not exceeding £5,000 and define this in their finance procedure rules</p> <p>e. Councils may also be restrained from disposing of land for a purpose that was not the purpose for which it was acquired under legislative powers and this is particularly relevant for: Corporate Property Strategy Disposals, Acquisitions & Community Asset Transfer Policy e.g.</p> <ul style="list-style-type: none"> • Allotments (in certain specific circumstances) • Open Space and Burial Grounds • Pleasure Grounds <p>f. Restrictive covenants are placed on land sold to restrict use to the value obtained.</p> <p>g. Guidance is clearly given that land sales and the prospect of gaining planning consent are totally separate decisions and one gives no guarantee of the other.</p> <p>h. There is no right of appeal in some councils, although applicants can request a further evaluation if new information comes to light and this may be the only basis of appeal in other council policies. A different office may</p>

		<p>review any appeal.</p> <ul style="list-style-type: none">i. The Council complaints procedure is used where process is thought not to be followedj. Some councils have a published timescale when they expect to meet response to applications and make decisionsk. Clear public consultation and opportunity for alternative interested parties to bid.
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Huntingdonshire District Council

Disposal of Small Land Parcels

Policy

Date Approved: xx/xx/2017

Review Date: xx/xx/2019

Version 1

Definition

The Councils Disposals and Acquisitions Policy defines the “disposal” of land and property as:

“The means by which it can.... divest and dispose of land and property that it considers are surplus to its service or investments needs.

All sales or acquisitions will be undertaken by the most appropriate commercially advantageous means.”

The Disposal of Small Land Parcels Policy is subsidiary to the Disposals and Acquisitions Policy and defines “small land parcels” as

- “as being less than 0.25 acres (1011 square meters) and not considered suitable for development.”

Property Strategy – Surplus Property

Land and property will only be determined as surplus if it no longer meets corporate and/or investment priorities. Land held as “open space” (or amenity land) is considered as held to support the provision of a Council service.

Risk management

All activity relating to land and property will be undertaken within an environment that minimises risk to both services and the capital, or revenue, investment that has been made. This includes impacts on reputation. There will be appropriate reporting to ensure that parties are aware of the risk that is being faced by any disposal.

Transparency and fairness

This policy provides a framework which is both transparent and consistent and demonstrates fairness in the disposal of property assets.

Value for Money

Value for Money is at the heart of how the Council delivers its services; regardless of whether these are front-line or back-office. In respect of the management of land and property, the Council will ensure that the Council is only holding an optimum balance of assets to meet both its service and investment requirements.

Small Land Sales Policy

- Small Land parcels will be less than 0.25 acres (1,011 square meters) and not considered suitable for development.

- Small Land parcels will only be determined as surplus if the land no longer meets service, corporate and/or investment priorities.
- Land and property will only be disposed when it is concluded that no other use can be made of the asset, within statutory provisions.
- Prior to sale, partners of the Council may be contacted to determine if there is an alternative use for the land and property.
- The Council will also undertake investigations into the legal, planning, financial and other aspects of the land before selling.
- Subject to legislative requirements, the Council will sell any surplus land and property for the best consideration, where this is not possible or where corporate objectives are not being met, appropriate activity will be undertaken to ensure that the Councils maximises any capital receipts.
- Small Land parcels will be disposed of as expeditiously as possible; this will not be via application but via selected open tender that will be advertised on the Councils website.
- Persons wishing to purchase small land parcels can nominate land they wish to be considered for disposal. Such nominated parcels will be:
 - added to the list of sites for consideration,
 - subject to the processes outlined above,
 - if suitable, will be added to a future open tender exercise.
- No matter the means of sale, the purchaser of respective small land parcels will meet all legal (and ancillary costs) of both vendor and seller. However, other than “sale by auction”, the vendor will be charged a fixed fee for the administration of the sale, this is noted in **Table 1** below.
- The sale of small land parcels will be excluded from the provisions of 10% transfer of sale proceeds to Town and Parish Councils.

Public Engagement Considerations

- The Council’s communication team will be consulted to ensure that any disposal of land and buildings is undertaken in a proportionate way. For such small land disposals, consultation with partners may not be applicable or appropriate. However, ward members will be contacted.
- Consideration will be given to the statutory requirements of the Local Government Act 1972 and the Town and County Planning Act 1990

Performance Management

Where receipts exceed £10,000, these will be Capital Receipts and will be accounted for as such, including being mapped against capital receipt targets that will be assessed annually and progress will be reported to the Corporate Management Team and Cabinet as part of the routine budget monitoring cycle.

Performance Management

There will be ongoing monitoring of disposals between the responsible officers and the parties selling or otherwise concerned with the disposal. There will be

appropriate reporting to Corporate Management Team where performance is in question.

Overarching Policy

All valuations of land will be undertaken by suitably qualified professionals. VAT and other tax implications will always be considered.

Resources

The resource implications, including Legal, Finance and Procurement will be considered for every disposal or acquisition of land and buildings and both members and officers will be required to comply with the pertinent requirements of both the Code of Procurement and the Code of Financial Management. The financial thresholds for the sale of small land parcels are less than those required of the wider disposals and acquisitions because small land sales are “smaller by their nature”. The thresholds are as shown in **Table 1** below:

Thresholds of the Sale or Transfer of Small Land Parcels		Table 1
All sales and transfers will include the transfer of all associated liabilities.		Minimum Administration Charge (*)
Transfer of Small Land Parcels to Other Public Bodies		
£0 - £10,000	Head of Resources (as Section 151 Officer),	£500
£10,000 - £50,000	Managing Director (as Head of Paid Service) & Head of Resources (as Section 151 Officer),	£1,000
£50,000 - £100,000	Managing Director (as Head of Paid Service) & Head of Resources (as Section 151 Officer), in consultation with the Executive Member for Strategic Resources.	£1,500
£100,000 - £500,000	Treasury & Capital Management Group.	£2,000
£500,000+	Cabinet.	£3,000
Sale of Small Parcels of Land		
£0 - £10,000	Managing Director (as Head of Paid Service) & Head of Resources (as Section 151 Officer).	£1,000
£10,000 - £100,000	Managing Director (as Head of Paid Service) & Head of Resources (as Section 151 Officer), in consultation with the Executive Member for Strategic Resources.	£1,500
£100,000 - £500,000	Treasury & Capital Management Group.	£2,000
£500,000+	Cabinet.	£3,000
* This Administration Charge excludes all legal and other ancillary costs. Further it is the minimum charge that any prospective purchaser will pay. If any sale requires additional officer time beyond what would reasonably be expected, the vendor will be required to meet this higher charge.		

The financial thresholds will be reviewed every 2 years.

Governance

The Council will have regard to all statutory and local regulations, including reporting to Corporate Management Team and in line with the Constitution, including the Treasury and Capital Management Group.

All disposal decisions i.e. those to be included in the Small Land Disposal Programme will in reported to the Overview & Scrutiny (Customers and Performance) Panel and Cabinet. However, there will be times where “time will be of the essence” and all such disposals will be reported retrospectively to Panel and Cabinet.

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Huntingdonshire District Council

DISPOSAL AND ACQUISITION OF LAND & BUILDINGS Policy

Date Approved: xx/xx/2017
Review Date: xx/xx/2019
Version 10

Definition

The Council defines the “disposal and acquisition” of land and property as:
“The means by which it can either:

- i. **divest** and dispose of land and property that it considers are surplus to its service or investments needs or
- ii. invest in land and property that will allow the Council **to** benefit from service efficiency or investment opportunities.

All sales or acquisitions will be undertaken by the most appropriate commercially advantageous means.

Risk management

All activity relating to land and property will be undertaken within an environment that minimises risk to both services and the capital, or revenue, investment that is made. This includes impacts on reputation. There will be appropriate reporting to ensure that all parties are aware of the risk that is being faced by any disposals or acquisitions.

Value for Money

Value for Money is at the heart of how the Council delivers its services; regardless of whether these are front-line or back-office. In respect of the management of land and property, the Council will develop an Asset Management Plan that will ensure that the Council is only holding to an optimum balance of assets to meet both its service and investment requirements.

Disposals Policy

- Land and property will only be determined as surplus if it no longer meets corporate and/or investment priorities.
- Land and property will only be disposed when it is concluded that no other use can be made of the asset, within statutory provisions. There are two distinct processes relating to:
 - Medium to large areas of land, their disposal is dependent on public benefit and corporate aims and objectives.
 - Small areas of open space, their disposal is dealt with through the “Disposal of small land parcels policy”. This will be for land that is below 0.25 acres (1,011 square meters). This size definition will only be changed in exceptional circumstances and only with the agreement of the Head of Resources.
- Prior to sale, partners of the Council will be contacted to determine if there is an alternative use for the land and property.
- Subject to legislative requirements, the Council will sell any surplus land and property for the best consideration, where this is not possible or where

corporate objectives are not being met, appropriate activity will be undertaken to ensure that the Councils maximises any capital receipts.

- Surplus land will be disposed of as expeditiously as possible and follow appropriate methods of disposal.
- Where land (**other than small land parcels**) is disposed of within a Parish Council area where there is no likelihood of any consequential development funding (e.g. Community Infrastructure Levy or S.106) returning to the Parish Council following disposal, that the Parish Council receives 10% of any capital receipt received by the Council, subject to agreement by Cabinet.

Public Engagement Considerations

- The Council's communication team will be consulted to ensure that any disposal of land and buildings is undertaken in a proportionate way.
- Consideration will be given to the statutory requirements of the Local Government Act 1972 and the Town and County Planning Act 1990

Performance Management

Capital Receipts targets will be assessed annually and progress will be reported to the Corporate Management Team and Cabinet as part of the routine budget monitoring cycle.

Acquisitions Policy

- All acquisitions of land and property are in respect of freehold, leasehold or licence.
- Land and property will only be acquired where it benefits service delivery and/or maximises investment opportunities and/or future strategic development, subject to meeting strict criteria; such as, need for asset to meet service delivery levels, option appraisal, on-going revenue costs are appropriately budgeted for, tenure is determined and VAT considerations (especially Opt to Tax).

Powers to Acquire Land and Buildings

The acquisition of land and buildings is enshrined within the requirements of the Local Government Act 1972 and to invest within the requirements of the Local Government Act 2003.

Performance Management

There will be ongoing monitoring of acquisitions between the responsible officers and the parties selling or otherwise concerned with the acquisition. There will be appropriate reporting to Corporate Management Team where performance is in question.

Overarching Policy

All valuations of land will be undertaken by suitably qualified professionals. VAT implications will always be considered.

Resources

The resource implications, including Legal, Finance and Procurement will be considered for every disposal or acquisition of land and buildings and the both members and officers will be required to comply with the pertinent requirements of both the Code of Procurement and the Code of Financial Management. The financial thresholds for both disposals and acquisitions are as follows:

£0 - £500,000	Managing Director (as Head of Paid Service) & Head of Resources (as Section 151 Officer), following consultation with Executive Councillor for Resources
£500,000 to £2,000,000	Treasury and Capital Management Group
£2,000,000 +	Cabinet

The thresholds in respect of the Sale or Transfer of Small Land Parcels are defined within the “Disposal of Small Land Parcels Policy

The financial thresholds to be reviewed in 24 months following approval.

Governance

The Council will have regard to all statutory and local regulations, including reporting to Corporate Management Team and in line with the Constitution, including the Treasury and Capital Management Group.

All disposal and acquisition decisions will be retrospectively reported to the Overview & Scrutiny (Customers and Performance) Panel.

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