



Cabinet Office

Guide for the Disposal of Surplus Land

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1.0 Introduction and Purpose of the Guide

1.1 Introduction

The disposal of surplus government owned property is an important part of the Government's drive to improve its estate management and create an efficient, fit-for-purpose and sustainable estate that meets future needs. This means disposing of surplus land and buildings in a way that delivers value for the taxpayer, boosts growth and delivers new homes. The Government has committed to freeing up land with capacity for at least 160,000 homes by 2020 and raising at least £5 billion from land and property disposals by 2020.

This Guide is aimed at the whole disposals team (estates professionals and policy teams) in Government Departments, and their arm's length bodies. It sets out the principles and technical processes for the disposal of surplus land and buildings and the current and developing policy context. It supplements the guidance provided in HM Treasury Managing Public Money¹.

All references throughout this Guide to surplus land equally apply to land, property, and buildings.

The guide comprises four sections: **Introduction and Purpose of the Guide; Identifying Surplus Land; Disposal Options and Monitoring; and Open Market Sale.**

Sections 1 to 3 covering **Introduction and Purpose of the Guide; Identifying Surplus Land; Disposal Options and Monitoring** will help Departments to understand the Government's policy objectives in relation to the future beneficial use of surplus Government land. They provide information on the key considerations in the disposals process up to the point of an open market sale.

Section 4, **Open Market Sale**, sets out the fundamental elements of disposing of surplus land on the open market.

1.2 Policy and Drivers

Any individual disposal, or programme of disposals, may support a range of objectives. These may include: making the Government estate more efficient; unlocking land for housing and economic growth; and facilitating wider service reforms such as digitisation. Whilst disposing of land and building is a technical process, it sits within a wider policy context.

There are also some areas where policy is in development, including:

- Part 8 of the Housing and Planning Act 2016 which is not yet in force.
- Government Hubs
- Accelerated Construction, and
- The new Government Property Agency currently being established

¹ HM Treasury Managing Public Money; <https://www.gov.uk/government/publications/managing-public-money>

An updated Guide will be published in 2017. This will set out roles and responsibilities of the new Government Property Agency and updates on other policy areas currently in development.

1.2.1 Government Estate Strategy

The Government Property Unit, which is part of Cabinet Office, is responsible for the Government's Estate Strategy². The latest Strategy sets out a vision for reforming the estate through a number of programmes and cross-cutting enablers. It explains how work across Government and in partnership with the wider public sector will drive a more efficient and sustainable estate, enable local economic growth and facilitate smarter working.

A number of reforms are underway, including:

- Robust strategic asset management - enabling the Government commitment to release land and property by 2020 to generate at least £5 billion in receipts.
- One Public Estate - delivered in partnership with the Local Government Association, supporting collaboration between local government, central Government and the wider public sector. Partnerships are each delivering ambitious property led projects to deliver more integrated services, boost local growth and drive efficiency savings.
- Government Hubs - reducing the number of Government office buildings from c.800 to c.200 whilst introducing smarter working to support civil service reform.
- A new body to manage Government property, with stronger commercial drivers and a new charging regime.

These programmes are underpinned by a number of cross-cutting enablers:

- ePIMS (Electronic Property Information Mapping Service) the central database for Government land and property. Departments are mandated to record details of assets on the database. Those joining the One Public Estate programme must record details of their assets on ePIMS Lite - a lighter touch version. Other public sector bodies may voluntarily enter details of their assets onto the database³.
- National Property Controls - requiring Departments to secure approval to commit new spending on property, including new or extended leases and new freehold acquisitions⁴.
- Benchmarking - supporting ambitions to achieve a space standard across the central office estate of 8 square metres per full time equivalent staff. This is reported annually in the State of the Estate Report.
- Government Property Profession - building professional skills and capabilities across the civil service, including through new standards, continued professional development and talent schemes.

² Government Estate Strategy (2014):

www.gov.uk/government/uploads/system/uploads/attachment_data/file/360262/Government_estate_strategy.pdf

³ Electronic Property Information Mapping Service (e-PIMS™)

https://www.epims.ogc.gov.uk/ePIMSNet/epims_login.aspx?ReturnUrl=%2fepimsnet

⁴ National Property Controls <https://www.gov.uk/government/publications/cabinet-office-controls>

1.2.2 Reusing Government Land to Support Priority Policies

In order to deliver an efficient estate, Government wants to avoid one Department acquiring a new site to meet requirements whilst another Department disposes of land which could have satisfied that need. Therefore, before any surplus site is listed on the Register of Surplus Government Land⁵, Departments and other public sector bodies are given 40 working days in which to express an interest in that site. Ahead of this 40 day notification the Homes and Communities Agency (HCA) and Education Funding Agency (EFA) are given an additional 10 day advance notification.

Public Land for Housing Programme

The advance notification provided to the HCA reflects the importance of the Public Land for Housing Programme (PLHP) and the Government priority to increase housing supply.

The Department for Communities and Local Government works in partnership with Cabinet Office and across Government to deliver the PLHP. It also supports the Government agenda to increase home ownership and build one million new homes by 2020 by helping to address the supply of land for housing. Government is a major landowner and it is important that Departments consider how they meet their commitments to support the PLHP as they reduce and reconfigure their estates.

The PLHP aims to increase housing supply by releasing surplus public sector land for at least 160,000 homes by 2020. The programme supports the strategic objectives of the Government Estate Strategy to deliver a more efficient Government estate, unlock land to boost economic growth, and dispose of at least £5 billion land and buildings by 2020.

The programme will increase and accelerate the supply of land for development of Starter Homes and other types of housing. Further details can be found in the PLHP Handbook⁶.

Homes and Communities Agency - Land Transfer Model

Spending Review 2013 announced a package of reforms to the disposal of land and property assets. This included centralising disposals in the Homes and Communities Agency (HCA) to ensure developable land is released efficiently to support housing and economic growth. From April 2015, all developable and viable surplus land and buildings held by Government and its agencies in England should transfer to the HCA for disposal using the Land Transfer Model (subject to an assessment for the Free Schools programme). This model applies to all developable and viable land, and is not limited to land that is suitable for housing. Ministry of Defence and NHS Trust land is exempted from the Land Transfer Model though separate arrangements may be agreed. Further information on the role of the HCA as Government's disposal body and how the land transfer process operates can be found in Managing Public Money.

⁵ Register of Surplus Public Sector Land:

https://www.epims.ogc.gov.uk/ePIMSNet/epims_login.aspx?ReturnUrl=%2fepimsnet

⁶<https://www.gov.uk/government/publications/public-land-for-housing-programme-2015-to-2020-handbook>

Accelerated Construction

The Government intends to use public land to encourage new developers and different models of construction to build homes at up to double the rate of traditional house builders. This 'Accelerated Construction' approach will allow Government to get started on up to 15,000 homes by the end of this Parliament.

Free Schools Programme

The advance notification provided to the Education Funding Agency (EFA) reflects the importance of the Free Schools programme and the role that surplus Government land can play.

Free schools were given approval in the Academies Act 2010, and establishing 500 Free Schools by 2020 is a manifesto commitment. Free schools are funded by the Government but operate independently of the local authority and have more control over how they do things. Identifying new Free School sites is a central part of successful delivery and the EFA is the body responsible for acquiring sites for Free Schools.

1.2.3 Housing and Planning Act 2016

Part 8 of the Housing and Planning Act 2016⁷ is intended to improve the effectiveness and transparency of public sector asset management and disposal of land and building assets. It provides that:

- Ministers of the Crown must engage with local authorities and other specified public authorities when developing proposals to dispose of surplus land.
- Ministers of the Crown and other specified public authorities publish a report setting out land and buildings which they have retained as surplus for at least 2 years (6 months for residential property), and their reasons for retention.
- An existing power for the Secretary of State to direct specified bodies to dispose of land may be used in a wider range of circumstances.
- Local authorities must report on improving the efficiency and sustainability of buildings which form part of their estate. These are similar to requirements in respect of the central government estate.
- The existing requirements for Government to report on improving the efficiency and sustainability of buildings are applied to the military estate.

Part 8 of the Act includes a number of powers to set out more detailed provisions in secondary legislation and guidance. These will be reflected in the 2017 version of this guide when Part 8 of the Act is expected to come into force.

⁷ Housing and Planning Act 2016 - <http://services.parliament.uk/bills/2015-16/housingandplanning.html>

1.2.4 Heritage Assets

It is important to consider where land and / or property is significant due to its historic, architectural, archaeological or artistic interest, and how it may be conserved or enhanced in a manner consistent with that significance. This is true whether or not they are given statutory protection through designation (for example as Listed Buildings or Scheduled Monuments).

The disposal of heritage assets should be handled carefully and in a sustainable way in accordance with Government policies regarding their protection and conservation. Consideration should be given to whether any provisions and protections should be made during and / or following the disposals process including long-term management and monitoring. See Annex 2.

1.2.5 Transparency

From the summer of 2017 Cabinet Office (Government Property Unit) will publish details of the commercial terms relating to the disposal of surplus Government land and buildings, except where there are strong reasons for commercial confidentiality. This is with a view to maximising transparency, as set out in the Cabinet Office report “Making Commercial Terms of Government Land Disposals More Transparent” March 2017⁸.

1.2.6 Right to Contest

The Cabinet Office, HM Treasury, and the Department for Communities and Local Government introduced provisions in 2014 to allow any member of the public, businesses, and local authorities to challenge government about a site, as long as they believe that all the following criteria apply.

Land owned by a central government department or one of their arm's length bodies

The site:

- Is potentially surplus or redundant
- Could be put to better economic use, e.g. for housing or to help business develop or expand

Land owned by a local authority or certain other public bodies:

- The site is empty or under-used
- There are no plans to bring it back into use

More detailed information in relation to the application process, details of the public bodies covered, reasons departments can give for not selling, how to find who owns the land or property, can be found at: <https://www.gov.uk/guidance/right-to-contest>. Any queries can also be sent to the Government Property Unit at the following address:

Government Property Unit
4th floor, Cabinet Office
1 Horse Guards Road
London, SW1A 2HQ

⁸ Cabinet Office report “Making Commercial Terms of Government Land Disposals More Transparent” March 2017: [link to be added](#)

2.0 Identifying Surplus Land

Identification of surplus land is the responsibility of individual Departments who should keep all land holdings under review by adopting principles of sound strategic asset management planning.

2.1 Strategic Asset Management

A strategic approach to the management and operation of Government land is fundamental to the successful and efficient delivery of services and an expectation of all Departments. To manage their estates strategically Departments must produce an annual Strategic Asset Management Plan (SAMP). SAMPs are commissioned by the Government Property Unit (GPU) and set out how the Department will: meet the objectives of the Government Estate Strategy; support wider Government policy and reforms; and deliver the Department's business change programmes. The SAMP links these overarching strategic objectives to service delivery.

A department's approach to Strategic Asset Management should deliver the most efficient estate to deliver its operations

2.1.1 Strategic Asset Management Plan

A Department's SAMP will include details of business change programmes which generate estate reform. These business change programmes will flow from the Department's strategic objectives and Single Departmental Plan. The SAMP will describe the current estate and should include comprehensive details of all assets. It will also set out how the estate is likely to look in the future.

An essential component of any SAMP will be to identify and release surplus land with the least possible delay, subject to the need to realise value for money for the Exchequer. Importantly the SAMP will include details of the Department's planned disposals, which will be identified as part of the Department's business change programmes.

2.1.2 Housing Delivery Plan

In addition to the Strategic Asset Management Plan, each of the largest land-owning Departments produce a Delivery Plan to support the Public Land for Housing Programme. Delivery Plans focus on how each Department will meet commitments set out in the Spending Review 2015. They set out when land is expected to be released for housing, and how Departments will manage delivery.

2.2 Identifying Surplus Land

Departments are guided to dispose of property which is surplus to requirements and should not hold land speculatively. HM Treasury's Managing Public Money⁹ advises that Departments should dispose of surplus land within three years and surplus residential property within six months.

It is the responsibility of Departments to determine whether or not land is surplus. In making an assessment to determine whether land is surplus Departments should consider if:

- The land is currently used/required to deliver their operational functions.
- There is a clearly evidenced plan to use the land to deliver their future operational functions.
- The land is held for commercial purposes and/or is integral to continuity of service delivery.
- The land is vital for business contingency, in line with the Departments strategic and operational plans.

Where land satisfies any of the above criteria it is unlikely to be surplus. However, the land may be surplus if:

- It is not used for current delivery or required for future delivery of the Department's operational functions and policies.
- The Department has no formally approved strategy and timetable for bringing the land back into permanent full operational use.

Each case should be assessed on the circumstances associated with the land and the Department's overarching strategic plan.

Part 8 of the Housing and Planning Act 2016 includes provisions requiring public authorities to report on land they hold that is surplus to their requirements. The legislation contains the power to issue guidance on determining whether land is surplus for reporting purposes. Provisions and supporting guidance will be brought into force in due course. At that time, public authorities will have a legal duty to have regard to the guidance supporting the Housing and Planning Act in carrying out their reporting functions.

2.3 Listing Land as Surplus

A Department wishing to dispose of surplus land should enter details onto the Register of Surplus Public Sector Land¹⁰ within ePIMS for a period of at least 40 working days before the site is marketed. The Education Funding Agency and Homes and Communities Agency are automatically notified 10 days in advance of the 40 working day notification period. The Register enables other public bodies to express an interest in acquiring the asset before it is put on the market. This is to avoid one part of Government disposing of land that another part could use to meet a need in the same area.

⁹ HM Treasury Managing Public Money:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/454191/Managing_Public_Money_AA_v2_jan15.pdf

¹⁰ Register of Surplus Public Sector Land:

https://www.epims.ogc.gov.uk/ePIMSNet/epims_login.aspx?ReturnUrl=%2fepimsnet

If the surplus land can be used beneficially elsewhere in the public sector then it may be transferred or sold at market value. If there is no interest, the asset can be disposed of on the open market. The disposal should be conducted in a proper and effective way, having recourse to appropriate professional advice, and this Guide.

The Government Property Finder website www.gov.uk/government-property-finder allows anyone to search and map the Government estate. It includes a section on sites for sale (those listed on the Register of Surplus Public Sector Land) and to let.

3.0 Disposal Options and Monitoring

3.1 National Property Controls - Approval to Dispose

The Government Property Unit (GPU) operates National Property Controls (NPC's) on behalf of HM Treasury. Organisations within the scope of NPCs must seek approval to dispose of freehold property interests.¹¹ Organisations are encouraged to engage with GPU before a formal request for approval to dispose is made in order to support a timely disposals process. Organisations should note that GPU may consult directly with HM Treasury and the Minister for Cabinet Office to seek their explicit approval.

Departments should work with GPU to develop their property strategies and a request for approval to dispose should be submitted sufficiently in advance to allow for a review process to take place and, if appropriate, alternative solutions explored.

GPU will:

- Consider whether the decision to dispose is appropriate within the context of the Department's estate strategy and the wider central and civil estate.

Once this has been established, GPU will:

- Monitor and approve the process for disposal in order to ensure that best value is achieved.
- Ensure that appropriate opportunity is given for disposal to EFA / HCA to support policies such as the Public Land for Housing and Free Schools programmes.
- Where the above options are not viable, approval of the disposal will be conditional on an appropriate disposal strategy to ensure that best value is achieved within the wider marketplace.

3.2 Considerations for the Disposal of Surplus Land

3.2.1 Reusing Surplus Land within Government

The NPC process will identify if a Department's surplus land can be reused within the Government estate. When this occurs then the land is not surplus to Government and can be transferred between Departments by internal transfer.

Internal transfers between Departments are at market value and should be certified by a qualified valuer, unless as part of a Machinery of Government change. Internal transfers do not need to be tested in the open market. Managing Public Money at A4.15.11 states that, "Public sector organisations may transfer property among themselves without placing the asset on the open market, provided they do so at market prices and in appropriate circumstances". An open market valuation certificate will be sufficient to satisfy requirements of achieving best value in the disposal. Managing Public Money, Box A4.15C, sets out a protocol for transfers of assets

¹¹ Cabinet Office Controls: <https://www.gov.uk/government/publications/cabinet-office-controls>

3.2.2 Reusing Surplus Land to Support Wider Government Policy

Once it is determined that a Department's surplus land is not required by another Department and the land is surplus to Government, it will be subject to an initial assessment to determine whether the land is suitable for either:

- Use as a Free School and sold to the Education Funding Agency (EFA).
- Transfer to the Homes and Communities Agency (HCA) as a developable and viable site using the Land Transfer Model (LTM).

Where surplus land is potentially suitable for both HCA and EFA then consideration will be given jointly by the EFA and HCA to determine the most beneficial end use of the land having regard to local priorities.

Sale to the Education Funding Agency

Free Schools are an important area of Government policy and it is critical that consideration be given to releasing land and buildings for this initiative before they are placed on the open market. At the point of land being declared surplus the Education Funding Agency - the body responsible for acquiring sites for the Free Schools Programme - will receive a notification. This is 10 working days in advance of the notification provided to other users who have registered to receive notification of surplus land.

Upon receiving notification, the EFA will commence assessing the land to determine whether it is suitable for use within the Free Schools programme. If suitable, the EFA may acquire the site at market value. The EFA operational area is England and Wales.

Transfer to the Homes and Communities Agency

Running concurrently with the EFA prior notification, land in England but outside of London will be subject to an assessment to determine whether it is suitable to support housing and economic growth and suitable for transfer to the HCA under the Land Transfer Model (LTM). This assessment will quickly filter sites to proceed through the LTM, or to be disposed of by the land-owning Department. Where sites are assessed as being suitable for disposal by Departments, then section 4 of this Guide provides advice of disposing of surplus land.

3.2.3 Disposal to Public Sector Bodies

Where surplus land is not suitable for:

- Reuse within Government,
- A Free School, or
- An HCA Transfer

Then an option appraisal will be needed to determine the most beneficial end use of the surplus land. The appraisal may include options for disposal to other public sector bodies or a disposal on the open market. It will adopt recognised appraisal methodology in accordance with the HM Treasury Green Book.

The Green Book emphasises the importance of careful and rigorous appraisal in connection with significant or material projects. As property disposals can involve significant capital and revenue funds, the focus on appraisal is important. The appraisal will consider cost effectiveness of options and assess the benefits that accrue from the options.

Disposal Direct to the Public Sector

Section A4.15.11 of Managing Public Money states that public sector organisations may transfer property among themselves without placing the asset on the open market, provided they do so at market prices and in appropriate circumstances.

Achieving the highest sale price for surplus land and buildings may not always deliver the maximum benefit to the Exchequer. A direct disposal to another public body without putting it on the market can be a valid method of disposal, and may be preferable where it delivers value for money.

Housing and Planning Act – Duty to Engage

The Housing and Planning Act 2016 will come into force next year. Part 8 of the Act will place a duty on Ministers of the Crown when developing proposals for the disposal of an interest in any land, to engage on an ongoing basis with local and other public authorities. Detailed provisions for this duty will be provided in secondary legislation and guidance. These will be reflected in the 2017 version of this guide when Part 8 of the Act comes into force.”

3.2.4 Disposal on the Open Market

Section A4.15.14 of Managing Public Money provides advice to public sector organisations disposing of land and property assets. Any consideration of a disposal of property should demonstrate that value for money considerations and transparency have been taken into account and balanced against the benefits of a timely disposal.

Managing Public Money gives Accounting Officers a clear framework for making value for money decisions on the disposal of land for the Exchequer as a whole.

The Green Book presents the techniques and issues that should be considered when carrying out assessments, to promote efficient policy development and resource allocation across Government. The guidance emphasises the need to take account of the wider social costs and benefits of proposals and to ensure the proper use of public resources. In some cases it may be justifiable to choose the option which does not generate the highest Exchequer receipt.

3.2.5 Disposal at less than Market Value

Where there are wider public benefits, consistent with the principles of Best Value, disposing bodies may consider disposal of assets at less than Market Value taking into account wider value considerations such as economic, environmental and social value factors

Where an asset is being disposed at less than Market Value, a market valuation is needed as part of the process of considering the wider public benefits alongside any financial implications. A market valuation will enable accurate accounting and reporting

When an asset is being sold at less than Market Value it must be approved in advance by Ministers and signed off by the departments Chief Accounting Officer

3.3 Disposals Monitoring and Performance Reporting

Disposal of surplus Government land supports key policy areas of increasing housing supply and generating receipts. Understanding how Departments are performing in these areas is essential to demonstrating the success of the policies.

Departmental performance on releasing land for housing and generating receipts is monitored through quarterly reports. These reports track progress and identify key risks to delivery. They report on actual and planned delivery. Delivery is overseen by the Public Land for Housing Programme Board and Ministerial Housing Implementation Taskforce.

4.0 Open Market Sale

This section of the Guide sets out best practice for public sector asset disposals on the open market. It is intended for the whole disposals team. It provides:

- A systematic process for dealing with property disposals.
- Assistance in determining the best means and methods for disposing of property assets.
- A methodology to ensure 'due process' is adhered to when considering disposals.
- A common approach to disposals, making best use of experiences gained to date to deliver value for money for the Exchequer as a whole.

4.1 Preparing for Disposal

Public bodies should be aware of the implications of disposals in financial reporting. Finance centres should be advised of land being identified as surplus so that correct valuations can be recorded on balance sheets, asset registers noted, and appropriate accounting entries made when a sale is completed so as to manage and mitigate issues of impairment.

4.1.1 Disposal Objectives

Through the strategic estates planning process Departments will have identified and consulted with affected stakeholders prior to determining land is surplus. When land is confirmed as surplus to Government and approved for sale on the open market, the Department should develop and agree disposal objectives with appropriate senior managers and initiate a disposals project.

Any single disposal may support multiple strategic and operational objectives. These objectives should align to the Government Estate Strategy, the Department's Strategic Asset Management Plan, broader business strategy, and Government policies.

Typical strategic objectives may include:

- Supporting a wider change programme - for example, Government Hubs.
- Supporting wider policy objectives - for example, releasing land with capacity for new homes or Free Schools.

Typical operational objectives may include:

- Time – the disposal may need to complete within a specified timescale to fit in with other disposals, acquisitions or relocations taking place.
- Budget – the Department will be looking to achieve the best consideration reasonably obtainable, subject to any relevant policy considerations.
- Quality – carrying out the disposal in accordance with approved practices.

Maximising proceeds is not the sole determinant of value for money. Other factors include the chance of a successful disposal; the impact of the disposal on other public sector occupiers; and meeting other Government objectives such as increasing housing supply or delivering Free Schools. Disposal benefits must be clearly defined at the outset.

4.1.2 Disposal Team

Once surplus land has been assessed as being suitable for sale on the open market and disposal objectives clearly established and signed off by the Senior Responsible Owner (SRO), the owning Department should develop a strategy to dispose of the site. It is essential that a suitably experienced disposals team is assembled. The team should be established at the outset to provide **appropriate Departmental, commercial, legal and professional support** throughout the disposal process.

The Department's SRO will be accountable for the disposal to the Department's Accounting Officer and accordingly have responsibility for the disposal and oversight of the disposal team. The disposal team should include representatives from the Department's Estates and Finance teams. Teams **must** include the correct mix of the core skills needed to successfully deliver the objectives of the disposal. Teams may typically include advisers such as commercial, legal, and professional consultancy **and critically have relevant sales and marketing expertise and an established track record in the market.**

4.1.3 Disposal Strategy

Once the disposal objectives are understood and Government policy considerations have been considered, a clear strategy for each disposal should be established. This may rely upon the advice of professional advisers or alternatively may be revised following receipt of their advice.

Once land has been assessed as not suitable for reuse within Government or the wider public sector then open market sale will be the preferred approach. There are various options available such as private treaty, tender and public auction. Each of these should be considered in the context of the type of land being offered for sale, the nature of the market for that type of land at the time of sale, and any specific issues or special characteristics associated with the land.

When formulating the disposal strategy, the Department should take into account the available disposal routes and other considerations set out below. These should then be applied to the subject land. In consultation with property and legal advisers, a disposal strategy should be developed that is most likely to achieve the goals and objectives of the disposal. In doing this, the Department should consider the following:

- The tenure or interest in the property to be sold.
- Characteristics associated with that interest, such as restrictive covenants or length of term.
- The Department's situation in respect of the property, such as whether it has sole occupancy and can offer vacant possession.
- Whether there is, or could be, a special purchaser for the property.
- Any opportunities for realising latent value, perhaps through a merger of interests or by obtaining planning consent for a change of use.
- Constraints such as planning restrictions or the building's characteristics (it may be listed or have an unusual structure).
- Any other considerations that may impact on the timeliness and value for money of disposal.

The Project Manager or Case Officer should consult with the Department's property and legal advisers in the context of these considerations. They should then develop a clear and robust strategy for approval based on considered assumptions and conclusions and supported by advice.

The disposal strategy should consider the following:

- Timing - identifying a desired disposal time and an estimate of lead times required.
- Pricing the market - taking valuation and agency advice to establish the likely realisation value achievable.
- Determining whether either of the above (timing and price) could be improved by undertaking any minor works to the subject property.
- Identifying the most appropriate disposal process (private treaty, tender, auction, etc.).
- Identifying marketing and advertising avenues.
- Considering the impact on the local (and general) property market if a large number of properties are to be placed on the market at the same time or in close succession.
- Considering whether the Department's needs to sell the land under certain conditions (e.g. in a certain timeframe) may impact on the price.
- Ensuring that the Project Team understands the disposal strategy and maintains the momentum to complete the process.

Pre-application engagement by Departments with planning authorities offers significant potential to improve both the efficiency and effectiveness of a Department's planning application. The approach to pre-application engagement needs to be tailored to the nature of the proposed development and the issues to be addressed. The engagement should provide the Department with a clear, timely, and authoritative view on the merits of the development options for the land.

The disposal strategy should provide a clear framework setting out the approach to be taken and the justification behind that proposal.

4.1.4 Procurement and Land Disposals

European Union (EU) procurement rules list public bodies which are "contracting authorities". Government Departments are contracting authorities and subject to EU procurement legislation.

If a disposal involves works or services then EU procurement rules may apply¹². The Senior Responsible Owner should seek professional advice as to whether the disposal will be considered to involve a procurement of Works and may be subject to the Public Contract Regulations 2015.

¹² 'On 23 June, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation. The outcome of these negotiations will determine what arrangements apply in relation to EU legislation in future once the UK has left the EU.'

Works or services may for example include where:

- A developer provides professional services to the contracting authority.
- There is a requirement to deliver a certain number of dwellings on a site by a certain time or to a certain standard.
- New facilities are provided for the contracting authority.
- There is an obligation to provide infrastructure (e.g. construct a road before development can begin).

If procurement rules apply then the disposal should be undertaken via a stand-alone OJEU procurement or an OJEU procured framework such as the Homes and Communities Agency's "Delivery Partner Panel" (DPP2) - see section 4.3.4.

For advice on whether EU procurement rules apply, Departments should contact Crown Commercial Services.

4.2 Accelerating the Disposal Process

There are a number of factors that can impact on disposing of surplus land in an efficient manner. The disposal team should develop the appropriate client brief, ensure the land is being disposed of under optimal conditions (e.g. that the correct amount of de-risking has been undertaken), that the right contract has been selected and that the right market has been targeted.

Set out below are matters that, if addressed, can eliminate many issues that delay disposals.

4.2.1 Due Diligence

In order to deliver disposals efficiently, Departments will need to undertake early due diligence. Title and boundary issues are common causes of delay. These can be mitigated by taking time at the start of the process to identify any rights of way, wayleaves, encumbrances, restrictive covenants, boundary difficulties, and the rights of other occupiers. Any issues identified should be investigated and either resolved or clarified prior to formally declaring the property surplus.

Failure to undertake sufficient checks at the outset may lead to protracted negotiations and inflated costs, and increases the risk of transactions collapsing. Undertaking early due diligence provides an opportunity to remedy any issues identified before the land is taken to the market thereby avoiding as far as might be expected the potential of a collapsed transaction.

Legal

Legal due diligence should confirm clean title and discover any relevant legal facts or constraints pertaining to land. Time should be taken to ensure that the disposal is permissible under the terms of any lease that might exist.

In many cases there will be restrictions on the use to which a property may be put, or who might be permitted to occupy accommodation - referred to as "Third Party Rights". Time should be taken to ensure that it is possible to offer the property to third parties, including confirming whether occupation rights are restricted to Government, or to specific Departments.

There should not be any debate over the title or the interest which is subject to disposal. Nor should there be any legal obstacle to undertaking the planned transaction. Checks should include investigation into any potential impact of the Crichel Down Rules¹³.

Physical

Physical due diligence should seek to reconcile the legal position with what is actually occurring on site and identify matters such as contamination, party walls, etc.

Financial

Financial due diligence should include establishing the book value and financial consequences to a Department if a disposal is undertaken.

4.2.2 Investment Prior to Disposal - De-Risking Sites

Investment prior to disposal (or de-risking) can help to provide more certainty for potential purchasers for a property and deliver an increased receipt. This is particularly the case when releasing land for housing delivery. The case for investment prior to disposal should be considered as early as possible and clearly set out in the Disposal Strategy.

De-Risking activity prior to disposal could include:

- Planning: pre-application engagement offers significant potential to improve both the efficiency and effectiveness of a Department's planning application. The approach should be tailored to the nature and potential of the proposed development and the issues to be addressed.
- Planning: preparing a development brief, securing a planning allocation or securing outline planning approval. Any decision on planning investment will be influenced by the size of the land offered to the market.
- Technical: producing technical reports and surveys such as ecology, topography and ground investigations.
- Prior works: works such as remediation, decontamination and demolition.
- Legal: the resolution of title issues.
- Infrastructure: providing physical or social infrastructure (e.g. roads or community facilities).

The level of investment should be appropriate to the size and nature of the site and be driven by the key disposal objectives. Consideration should also be given to whether investment will reduce the conditionality of bids and increase the certainty of receipt. The final decision to invest should be based on a robust analysis of the 'return on investment' of a range of options and a clear understanding of the site's viability.

¹³ Crichel Down Rules: <https://www.gov.uk/government/publications/compulsory-purchase-process-and-the-crichel-down-rules-guidance>

Advice should be sought from professional advisers when considering any investment prior to disposal.

4.2.3 Capturing Future Uplift in Development Value

It should be apparent from the work undertaken when preparing the Department's Strategic Asset Management Plan where surplus land might have development potential. Departments should consider how they and taxpayers might share in future profits or increases in the value of the land after disposal.

Where a property is being sold with the benefit of the best planning permission reasonably obtainable, or market conditions or other factors indicate that it would be beneficial to do so, Departments should consider making provision to share in development profit through overage or clawback clauses.

'Overage' means claiming back an element of improved development value where, for example, there is a general uplift in the market, or where the market value of the end development is not known at the time of sale.

'Clawback' refers to claims for all or part of windfall gains resulting from, for example, the purchaser obtaining planning permission for a change of use, or a greater volume of development than anticipated by the planning permission obtained prior to disposal.

Examples might include:

- Where it is difficult to gauge the commercial potential of a property.
- Where a particular type of purchaser may have a better chance of obtaining consent for a development than the Department.
- Where a developer can improve upon a planning permission obtained by the disposing Department.
- The disposal of a listed building.

Clawback and overage provisions may be difficult to enforce due to:

- Difficulty in monitoring the value of the property when it no longer belongs to the Department.
- Agreeing the increase in value that is due to the agreed event.
- Ensuring that payment of the uplift is protected.

Contractual and other devices can be used to attempt to enforce the payment of the uplift in value. Clawback or overage clauses are specialised and may give rise to complex legal issues. Disposal teams should therefore seek appropriate advice at the outset to determine the best way to proceed. This should include an assessment of the effect of clawback or overage clauses on the sale price. The effect can be explored by inviting offers both with and without clawback or overage provisions. The calculation to be applied should be clear and explicit in the agreement. Clawback levels are usually designed to diminish over time until they 'expire' and the purchaser is able to dispose of the property without reference to the Department.

Other methods that may be considered in sharing in increases in development value, such as retention of ransom strips and options to purchase, are set out in Annex 3.

4.2.4 Conditional Sales

Conditional Contracts

Conditional contracts either become binding when some event takes place (*conditions precedent*), or are terminated when some event occurs (*conditions subsequent*). Offers that are made for a property ‘subject to contract’ may also be subject to planning consent, asbestos surveys, site surveys, etc. This means that exchange and / or completion of contracts will be conditional on resolution of the issue(s) of particular concern.

The inherent challenge of a conditional contract for the vendor is what happens when a condition is not satisfactorily resolved from the point of view of the purchaser, for example where a planning consent eventually emerges and is subject to unacceptable conditions. In such circumstances, which may occur some considerable time after the sale or transaction has been completed, the contract conditions may not be satisfied and the disposal may not proceed at all. Alternatively the purchaser may proceed but wish to adjust the terms, including the price, to reflect the problems that have arisen.

Contracts may specifically allow for the purchaser to withdraw or to adjust the terms. However, this is a complex area and must be carefully controlled by the disposal team’s Senior Responsible Owner working with legal advisors.

It is important to make sure that any conditions attached to the disposal are explicitly stated in the contract. The term “conditions precedent” should be clearly stated in the contract and in all correspondence with the prospective purchaser regarding the disposal.

The Department should be certain that any conditions attached to the disposal are incorporated into the disposal contract. In addition, the negotiating agent should ensure that all negotiations are undertaken on the premise of conditions precedent.

Controlling Development End Use - Building Leases

Where Departments wish to ensure that a site is built out for the purpose for which it was released, or where there is a requirement to monitor / report on post-sale activity (such as in the case of disposals made under the Public Land for Housing Programme), then a freehold disposal may not be the most appropriate type of contract. In a freehold sale, the vendor is unable to control what is ultimately delivered on a site. It is possible, for example, that land sold for the purposes of housing may be turned for commercial use. Under such circumstances, the Homes and Communities Agency has developed a ‘Building Lease’ which is a specific form of unconditional disposal contract that can be used when disposing of residential or mixed use land.

A Building Lease grants permission to the purchaser to occupy the land for the purposes of development for a maximum period of 125 years. The freehold of the land is retained by the vendor until the homes are completed and sold to the final home buyer. At this point the freehold is transferred to the home buyer.

Building Leases are most commonly used in the disposal of residential / mixed use land when there is a need to control development in some way, and therefore when a disposal is likely to include a procurement of Works. For example, when the vendor wants / needs to ensure the intended development purpose is adhered to, e.g. ensure housing is delivered; that the specified number of units are actually built; that delivery is within a specified timeframe; or to allow sites to be sold on a deferred payment basis (Build Now Pay Later).

If a Department opts to use a Building Lease as a form of contract then this can be accessed by disposing of site through the Homes and Communities Agency's DPP2 framework (see below).

Joint Ventures

In some cases, Departments may not realise the full potential land value of a site with development potential through an outright sale. Special participation or profit sharing arrangements may yield a better return. These cases need a greater degree of legal, marketing and monitoring expertise than straightforward sales, and it is essential that appropriate advice is obtained.

Departments can also use Joint Ventures to bring in a partner organisation with suitable skills and expertise to take a disposal forward. Where such an arrangement is considered, it is important to check that the purchaser is backed by adequate financial resources and offers the best combination of financial status and proven track record of successful development, involving the resolution of planning and other project problems.

Joint venture arrangements allow the Department to benefit from growth in values if a development is highly successful. The main disadvantage is that negotiation to settle the terms of the arrangement can be complex and time consuming. Care must be taken to ensure that any reduced payment at the outset is more than offset by a realistic estimate of later profits, and that the developers' costs and sale terms are realistic and can be professionally checked to ensure that the predicted profit share is in practice likely to be achieved.

A key element is the agreement of a "base value" which is paid at the outset (or in stages at regular intervals, or as the development proceeds), together with a shared "development profit" (which is the difference between the development value and the development costs) to be shared between the parties in accordance with agreed terms.

4.3 Disposal Routes and Marketing

When evaluating options to dispose of land Departments should take advice from their selling agents on the most appropriate disposal route together with advice on costs and associated lead times. Selecting the most appropriate method of sale is vital to achieving a successful value for money sale. Departments should reserve the right not to accept the highest - or any - offer if there are good commercial reasons for doing so.

4.3.1 Sale by Private Treaty

Pros	Cons
The vendor sets the price	No market testing
The vendor determines the pace of the sale	May miss out maximising synergistic value due to special purchaser
Special purchaser may bid higher than the market	There is no firm contract at the point of offer and acceptance
Marketing costs may be lower	

This is the method most widely used in the United Kingdom. Vendors make it known that a property is for sale, usually through agents who circulate particulars of the property to potential purchasers. Once a potential purchaser has expressed an interest, terms of sale are negotiated. Private treaty relies on an element of goodwill on both sides.

The main characteristics of a sale by private treaty are:

- The timescale for completion of the transaction is not fixed until exchange of contract.
- Offers are made 'subject to contract'.
- Offers are not all received at the same time.
- It is usual for the asking price to be quoted.

Departments should ensure that the land is fully exposed to all potential purchasers throughout the marketing process to ensure genuine competition. There is therefore the potential for private treaty negotiations to extend over a considerable period of time, either because the purchaser has valid concerns regarding the physical nature of the land or its legal status, or for other reasons such as the purchaser also being interested in another parcel of land.

The steps involved in a private treaty transaction usually include the following:

- Openly advertising the land for sale.
- Specific markets can be targeted through a choice of advertising media.
- Taking offers from interested parties.
- Identifying preferred offers, which may or may not be based on the financial levels of the offer.
- Managing offers – keeping bidders interested when they are not the 'preferred' bidders, i.e. when there is a better offer but the deal is not yet confirmed.
- Negotiating disposal terms.
- Agreeing terms, obtaining approval, and proceeding with the legal transaction process.

The aim of the process is to maximise interest for as long as is possible before marketing begins. An example where a private treaty approach might be appropriate would be where a sitting tenant expresses an interest in purchasing the property and is prepared to pay more than the market value. In such an instance, a suitably qualified valuer should give written assurance that the price offered is significantly higher than market value. In very rare cases, a concessionary sale may be made to a heritage body (such as the National Trust). In such cases the Department's Accounting Officer and Minister will need to confirm arrangements and Treasury approval should be sought.

In England and Wales property transactions need to be made in writing. However, under the terms of the Requirements of Writing (Scotland) Act 1995, a contract may be created unintentionally by an exchange of letters. Care should be therefore taken in Scotland to ensure correspondence or verbal statements are not deemed to form part of a contract.

4.3.2 Sale by Public Auction

Pros	Cons
Quick, certain and fair route to sale, contract is established on the day	Specialist skills required
Good for the sale of small, commonplace investment properties or for secondary or tertiary properties where traditional methods of marketing might not attract sufficient interest	Potential purchasers may have limited time to undertake investigations prior to sale which may lead to more cautious bids
Interest and competition in the saleroom on the day may generate more interest from potential purchasers and lead to a price in excess of the estimated market price	Rely on sufficient interest and competition in the saleroom on the day and may miss out on bids from potential special purchasers ¹⁴
Conditions of public accountability are seen to be satisfied	Some potential purchasers dislike auctions and may be deterred from bidding
The vendor can be satisfied that, on the day, the best possible price was achieved	Auctions can have high marketing costs

Case Officers should ensure that suitably qualified professionals are appointed if pursuing an auction disposal. A clear advantage of this option is that when the hammer comes down a contract has been created. This focuses everyone's minds, as there is no time to reconsider.

When preparing for a disposal by auction preparation must be meticulous and conditions of sale should be published with the auction prospectus. It is vital that the auction is sufficiently advertised and that the property has sufficient exposure to the market. It is important that the auction prospectus is accurate, as a sale following incorrect auction particulars or misstatements may lead to a rescission or price abatement if the purchaser litigates.

Departments may decide upon a guide price to assist potential purchasers. The sales agent / property adviser should indicate whether there should be a reserve price on the land. Any reserve price should be set close to the time of the auction. This is confidential between seller and auctioneer. Legal advisers should be instructed to draw up conditions of sale in advance of advertising the auction.

If a bid is accepted during the auction then the prospective purchaser must lodge a deposit at the time. Completion follows in accordance with the conditions of the sale issued with the auction prospectus.

Professional property advice should be sought to establish whether an auction is the most appropriate method of disposal.

¹⁴ Special purchaser, for example in the case of residential estates, farms or other properties. In such cases, a sale by auction should only take place if negotiations with the special purchaser have been unsuccessful.

4.3.3 Sale by Tender

Informal Tender

Pros	Cons
Increased flexibility to purchaser and vendor over the terms of the offer	The purchaser is not bound to proceed
Gives vendor the opportunity to share in future uplift in development value through mechanisms such as overage and clawback	Risk that any accepted offer may not complete as bid may be subject to outstanding issues/conditions
Allows the parties to clarify and negotiate final terms of the sale, especially useful where overage or clawback provisions need to be negotiated	
Allows the market to determine the most valuable use; developer bears the risks and costs of planning; permits full investigation and removes uncertainty	

Informal tenders tend to be used in cases where there are either some issues that make either a Private Treaty or a Formal Tender sale difficult, or where demand is likely to be restricted due to the nature of the property to be sold. It is similar to a private treaty sale, except that the land is marketed for a set period of time, after which marketing ends. This allows the vendor to look at a number of bids simultaneously and make a judgement as to which bid to accept.

In an informal tender, bids are usually invited from selected parties, subject to contract. These will be subject to outstanding issues such as planning permissions or details of proposed development schemes being resolved. Bids can also be invited publicly. The vendor is not usually obliged to accept the highest, or any, bid. Offers received will still be 'subject to contract'. However, provided a number of offers are received, there will be an element of competition, which is of assistance to the vendor in subsequent negotiations.

Formal Tender

Pros	Cons
Public accountability is self evident, clearly demonstrates the sale process has been fair, with the highest compliant bid winning the process	Time and expense bidders must incur on detailed investigations without certainty of being successful
Provides certainty on timing and costs	Can deter potential bidders and may not be a suitable method in a weak market
Promotes sale to a wide market, sale above the estimated market value may be achieved	The tender procedure can involve large numbers of interested parties and can be time consuming and expensive
Could promote a higher bid from a purchaser with a particular interest (special purchaser)	Difficult to include overage in a formal tender sale

Formal tender is a useful method of disposing of land but care needs to be taken to ensure that the land has been given the fullest exposure to the market. Formal tenders tend to be used in order to create certainty in terms of timescales but can be lengthy and costly for prospective purchasers. In a formal tender the 'Conditions of Sale' i.e. the contract terms, are sent out with the sales information. Prospective purchasers have to return the entire document, including the conditions of sale, signed and enclosing a deposit. The vendor then normally has a set period within which to make a decision on the bids received.

Once a bid is accepted and the deposit banked, a contract has been concluded. They therefore have to carry out detailed investigations into the land prior to submitting an offer without knowing whether they have any real chance of acquiring the land. Unless the market is very strong for the land on offer, the number of bids likely to be received will generally be fewer than if the land was offered by way of informal tender or private treaty.

Formal tenders require specific preparation including:

- Property and legal advisers drawing up the 'Conditions of Sale' and tender documents.
- The selling agent or property adviser should advise on the reserve price.
- The land is usually sold to the highest bid above the reserve, although consideration should still be given to lower bids.
- If the highest bid only marginally fails to clear the reserve price, then advice should be sought as to whether it should be accepted.
- Bidders' creditworthiness and sources of finance should be thoroughly checked prior to accepting any bids.

4.3.4 Delivery Partner Panel 2 (DPP2)

The Homes and Communities Agency's Delivery Partner Panel (DPP2) is an OJEU compliant Framework panel that can be used for the disposal of residential and mixed-use development on public sector land where the procurement of Works is involved. It can speed up the disposal process by only requiring a 'mini-completion' to be undertaken, rather than a full OJEU tender.

Panel Members comprise of leading house builders, developers and contractors who have a track record of delivering housing-led schemes.

The DPP2 can be used to procure a developer to take responsibility for all stages of the development process - from obtaining planning permission, through design and construction of homes and associated infrastructure, to marketing and sales. It can also be used for soft market testing. This provides the opportunity of gaining views from Panel Members on the viability and best way to approach a specific proposal before offering the opportunity to the market. Panel Members can provide soft market testing and early stage viability advice free of charge. There is further information on the Framework in Annex A4.4 below.

4.3.5 Negotiated Disposal

Where there is a clear case that this will result in a better outcome for the disposing body, it may be necessary to dispose of an asset on a non-competitive basis (negotiated) basis. This may include: when there is little interest in an asset; when bids fail to achieve minimum quality / output levels; when a complex development is envisaged; or when there is evidence that bids have not extracted the full potential (in terms of value, quality or outputs as appropriate) from the asset.

Negotiated disposals should be at Market Value, in accordance with Managing Public Money. Advice should be sought professional and legal advisers.

4.3.6 Other Disposal Methods

Asset Backed Investment Vehicles / Joint Ventures

Where unfavourable market conditions militate against conventional methods of disposal, or there is a clear financial advantage to the disposing body, other disposal structures such as joint development vehicles may be considered. Any such approach would have to provide the best value for money option and meet standard requirements on propriety and safeguarding the public interest. It would also need HM Treasury approval.

Landowner's Development Agreement / Collaboration Agreements / Land Promotion

It may be appropriate to consider using a different form of contract or arrangement in some circumstances. For example, where an asset is large or complex, or where there may be financial or development benefit derived from working with or through another party (such as an adjacent landowner, developer or land promoter) to dispose of the asset. This could include:

- Collaboration Agreement, Joint Venture (contractual or unincorporated), Collaborative Agreement or Cooperation Agreement where the disposing body intends to work with another party to dispose of an asset.
- Landowner's Development Agreement, where the landowner intends to engage a developer to undertake the development on its behalf.
- Land Promotion Agreement, where a developer or land promoter applies for planning permission on a landowner's property and then markets that property on the open market once it has been obtained.

4.3.7 Marketing - Securing Interest

Once a disposal strategy has been approved, the Project Sponsor and Case Officer will be responsible for ensuring implementation of that strategy.

Where a disposal is complex it is important to appoint professional advisors who can clearly demonstrate that they have experience of similar complex transactions. Disposal agents and legal advisers should be clearly briefed on the objectives, the processes to be undertaken, and the roles and responsibilities of everyone involved with the disposal. It is essential that Departments and their advisors are open and transparent in all their dealings, including fully documenting all advice provided, decisions taken and reasons why a particular sale method has been chosen.

Disposal agents should regularly report on progress. It is common to use performance related fees to incentivise delivery. Agents can be expected to advise on the likely market(s) to target and how they propose to undertake marketing. Agents will also advise on advertising costs so that a budget can be agreed.

Agents should be encouraged to identify and target any special purchasers. If more than one potential purchaser is identified, then it is important to maintain interest, even after an acceptable offer has been received. By maintaining a level of market tension the Department's position can be protected in the event of the sale not proceeding

4.3.8 Maximising Disposal Opportunities

Markets for property may depend upon a number of factors, including:

- Potential occupants of the property in its present use.
- Potential occupants of the property for a different use.
- Potential investors looking to secure a suitable tenant.

Departments and their advisers and agents should carefully assess who to target in the marketing strategy based on the above. For any given property there may be a wide variety of potential purchasers, and a broad overview of the different possibilities should be undertaken before focussing on just one target market.

The success of this stage in the process can be tested through an assurance review. This should ensure that all avenues have been explored and the market thoroughly tested for interest. Approval can then be sought from the Senior Responsible Owner to proceed to the next stage of identifying preferred buyers and agreeing terms.

4.4 Sale and Completion

In most instances the disposal of land will be undertaken through a direct negotiation with the purchasing party. Case officers and their disposal team should have the appropriate experience. Assembling a suitably experienced disposal team with an established track record in negotiating disposals will ensure that all due consideration is given to the disposal before the negotiations are entered into.

4.4.1 Preparation

The aim of the negotiation phase is to achieve the best consideration for asset disposal terms reasonably obtainable for the Department. Preparation for negotiations plays an important role in achieving that goal.

Although the Department's selling agents are likely to be both skilled and experienced in negotiating disposals, the Department can assist them greatly by ensuring they are fully briefed about the Department's parameters for agreement and its negotiating circumstances.

Key considerations prior to negotiations will include:

- Strengths and weaknesses of the Department's negotiating position.
- An assessment of the parameters within which terms would be acceptable.

4.4.2 Negotiation

Case Officers should consider what the Department's negotiating objectives are. This should be done in consultation with the Department's property advisers. Examples are:

- Where the purchasers are 'special purchasers' such that they would benefit more from the acquisition than another purchaser.
- Should there be a shortage of properties similar to the subject property such that potential purchasers may be prepared to pay a premium in order to secure the purchase than they might be at other times.
- Where there is a surplus of similar properties available on the market such that the potential purchaser could choose to acquire another similar property on better terms.
- Where the Department is facing a potentially large backlog maintenance cost or dilapidations liability if they retain the property.
- Should the Department be seeking to surrender a lease that has a long unexpired term, thus creating a potential problem for the landlord, if they agree, in terms of a void period and uncertainty as to who would be the next tenant.

Case Officers should also establish a risk register and consider the risks identified in light of any negotiation or offer amending the register as necessary to reflect the latest negotiating position.

4.4.3 Agreement of Terms

It is important that agents negotiating on the Department's behalf clearly understand the parameters within which they must work and are briefed to enable them to plan their negotiations accordingly. This should form part of the initial brief given upon appointing selling agents.

The agent representing the Department must clearly understand the decision making process for agreeing terms. This way, the agent will know when proposals can be agreed in principle and when they cannot. Information is often the negotiator's key tool, and knowing what can be revealed and when can be important in obtaining the best disposal terms.

The Case Officer and Project Manager need to be certain about what levels of delegated authority exist in relation to this disposal so that they know when to refer matters to others for decisions.

In order to ensure that offers are passed through to the Department in an appropriate and timely manner, a reporting and decision making process with delegated authorities should be agreed. The legal advisers' role must also be clear with instructions given at appropriate times in respect of contract preparation and the conveyancing process.

Case Officers should also note what approvals will be required in order to complete the disposal. These should be arranged in good time, particularly if a report is to be produced recommending the terms for acceptance, or the matter is to be considered by a periodic Committee.

There is no guarantee that negotiations with the preferred purchaser will complete successfully. Therefore, it will be important to identify opportunities for keeping other prospective purchasers involved so that a 'reserve list' can be created. Departments should discuss the approach with their disposal agents and seek their advice.

Where the Department is letting or subletting property, the Department's property advisers should ensure regular reporting and consultation throughout the negotiation of terms. Lease terms should be drafted with care, as they will bind the Department throughout the term of the lease.

Negotiating agents and representatives should consider any proposed purchasers, assignees or tenants in terms of:

- Track records and intentions.
- Their commercial standing (including availability of funding for the particular transaction).
- Risk assessment.
- State Aid implications.
- Certainty of success.
- Potential implications of their acquisition.

Once a disposal process reaches the stage of contractual negotiation and exchange, it will be important that there is a high likelihood of a successful completion.

In addition, any disposal to purchasers that are found to be taking part in illegal or immoral activities will likely result in a high level of scrutiny being levelled at the Department.

4.4.4 Liaison with Legal Advisers

Ideally legal advisers and negotiating agents should be appointed at the same time. Although the negotiating agent will be experienced in these matters, contract terms and conditions should still be discussed with the Department's legal advisers prior to final agreement.

The Case Officer should ascertain when the legal advisers will require instructions at different stages of the process in order to ensure that those stages run smoothly.

The Case Officer and Project Manager should also establish whether the legal advisers will be given any form of delegated authority for transacting documents and upon whose authority they will be able to act.

4.4.5 Sales Due Diligence

Departments should expect their agents to undertake adequate checks to ensure that the:

- Terms agreed represent value for money.
- Sale meets the objectives set out in the brief set by the Department.
- Proposed purchaser is able to complete the purchase as agreed.

Departments should be satisfied before committing to any transaction that they are not committing to a transaction likely to be drawn into a “tax efficient” or involved in money laundering schemes. Particular care should be exercised when a potential purchaser is domiciled offshore.

4.4.6 Sales Subject to Conditions

As a general rule sales contracts should be kept as simple as possible. This helps to minimise costs and reduces the risk of deterring potential purchasers with complex contract terms. In some cases, however, the sale of land may need to be dependent on certain conditions being met, e.g. securing planning consent. The most common way of dealing with this situation is a conditional contract.

4.4.7 Completing the Deal

When a purchaser has been found and terms have been agreed, there are still a number of activities to be undertaken in order that the disposal should be successful.

Legal advisers usually handle exchanging of contracts and completing the disposal. A process of reviewing progress should be put in place to ensure a smooth process. The Case Officer should track progress and ensure key activities are completed on time including:

- Obtaining the necessary approvals and signatures that will enable exchange to take place, allowing for the lead times associated with this.
- Arranging for financial sign off to be obtained and monies to be transferred at the appropriate times.
- If the disposal is a lease assignment or subletting, securing any consent required from the superior landlord and allowing for the lead time associated with this. Ensuring associated costs have been built into the project’s budget.

A risk assessment of the ‘deal’ should be undertaken, together with a risk management exercise to identify issues that will require attention in order for the disposal to complete satisfactorily. It would also be prudent at this stage to undertake a due diligence exercise prior to absolute commitment to a transaction to ensure that the:

- Disposal has followed due process and all matters have been addressed.
- Proposed purchaser, assignee or tenant will be suitable, i.e. that they will be able to complete the acquisition and meet future commitments and liabilities.
- Disposal represents value for money in terms of the price achieved and benefits gained.

The success of this stage of the process and readiness to proceed to final completion can be tested through an assurance review. This will help to satisfy the Senior Responsible Owner that all necessary checks have been completed and that the transaction delivers value for money.

In Scotland, conclusion and settlement of property transactions take a slightly different form compared to England and Wales. Following agreements of the terms of the missives, the contract is concluded by the legal advisors and at that state becomes binding on both parties.

In freehold disposals there is often a delay between completion of a contract and settlement, normally 14 to 28 days, to allow conveyancing to be completed. In a leasehold disposal, the settlement often occurs at the same time as the conclusion of missives, with execution of the lease by both parties taking place shortly thereafter.

4.5 Post Transaction Monitoring

Once land has been sold the Department should:

- Update the e-PIMS database to reflect the sale of the land records should be made historic promptly, as and when disposals occur, see section 6 of the e-PIMS user manual.
- Update its asset register records and estate terrier
- Make provision to monitor any sales contracts that include arrangements to share in any future uplift in the development value of the site (i.e. Overage or Clawback mechanisms). Noting,
 - All future payments and dates when payments are due
 - Any conditions that may trigger a future payment
 - Any rights or easements granted to the department over the property sold, or to the purchaser that affect any retained land by the department
- Ensure payments received that relate to uplift in development value are included in Public Land for Housing Programme quarterly monitoring report.
- If scored towards the Public Land for Housing Programme ensure that a relevant “shape file” establishing the boundary of the site released is provided as part of the quarterly monitoring return, to ensure subsequent monitoring of homes built on the land.

Annex 1 - References

This Annex provides links to the key areas and documentation referred to in the Guide.

Government's Estate Strategy (Cabinet Office 2014):

www.gov.uk/government/uploads/system/uploads/attachment_data/file/360262/Government_estate_strategy.pdf

Register of Surplus Public Sector Land:

www.epims.ogc.gov.uk/ProgrammeHub/public/Register%20of%20Surplus%20Public%20Sector%20Land%20User%20Guide.pdf?id=ed01c92f-da69-4980-a87e-fe9c956d7dd3

Transparency - Cabinet Office Report "Making Commercial Terms of Government Land Disposals More Transparent" (December 2016)

Government Financial Reporting Manual (2015 - 2016)

www.gov.uk/government/publications/government-financial-reporting-manual-2015-to-2016

HM Treasury; Green Book - Appraisal and Evaluation in Central Government:

www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government

HM Treasury; Managing Public Money:

www.gov.uk/government/uploads/system/uploads/attachment_data/file/454191/Managing_Public_Money_AA_v2_jan15.pdf

Housing and Planning Act 2016: www.services.parliament.uk/bills/2015-16/housingandplanning.Public_Land_for_Housing_Programme

HCA Land Transfer Model - Disposal of Surplus Public Sector Land & Buildings Protocol for Land holding Departments

www.gov.uk/government/publications/disposal-of-surplus-public-sector-land-and-buildings-protocol-for-land-holding-Departments

Technical

Royal Institution of Chartered Surveyors (RICS) Valuation Professional Standards (The Red Book)
<http://www.rics.org/uk/knowledge/professional-guidance/red-book>

Crichel Down Rules: www.gov.uk/government/publications/compulsory-purchase-process-and-the-crichel-down-rules-guidance

Heritage Estate

Historic England website: <https://historicengland.org.uk/>

Disposal of Heritage Assets: www.historicengland.org.uk/images-books/publications/disposal-heritage-assets/

Protocol for the Care of the Government Historic Estate: www.historicengland.org.uk/images-books/publications/protocol-for-the-care-of-the-government-historic-estate/

Procurement

Official Journal of the European Community (OJEC): www.ojec.com/

Framework agreements

Crown Commercial services and Homes and Communities Agency:

Homes and Communities Agency: www.gov.uk/government/organisations/homes-and-communities-agency

Crown Commercial Services: www.gov.uk/government/organisations/crown-commercial-service

Planning

National Planning Policy Framework (NPPF): www.gov.uk/government/publications/national-planning-policy-framework--2

National Property Controls: www.gov.uk/government/publications/cabinet-office-controls

Plain English Guide to the Planning System: www.gov.uk/government/publications/plain-english-guide-to-the-planning-system

Annex 2 – Heritage Assets

It is important to consider where land and property are of historical, architectural, or archaeological interest, and how they may be conserved in a manner appropriate to their significance.

A2.1 Identifying the Heritage Estate

A heritage asset is defined in the National Planning Policy Framework (NPPF)¹⁵ as, “a building, monument, site, place, area or landscape positively identified as having a degree of significance meriting consideration in planning decisions. Heritage assets are the valued components of the historic environment. They include designated assets and assets identified by the local planning authority during the process of decision making or through the plan making process (including local listing). The NPPF defines a designated heritage asset as, ‘a World Heritage Site, Scheduled Monument, Listed Building, Protected Wreck Site, Registered Park and Garden, Registered Battlefield or Conservation Area’. Further information about all aspects of heritage protection is available on the Historic England website¹⁶.

In accordance with the Protocol for the Care of the Government Historic Estate¹⁷, Departments should have details of all assets that are of heritage significance. This information should inform the management of these assets and any considerations related to their disposal.

A2.2 Disposing of Heritage Assets

Any public body looking to dispose of a heritage asset should follow Historic England guidance, The Disposal of Heritage Assets¹⁸. Historic England is updating this guide, which is due to be published early 2017.

It is important to consider where land and / or property is significant due to its historic, architectural, archaeological or artistic interest, and how it may be conserved or enhanced in a manner appropriate to its significance. A Statement of Significance can be a helpful way to clarify the heritage values attached to a heritage asset, and their relative importance. Where a site raises complex heritage issues, a conservation management plan may be required.

The Government Historic Estates Unit (GHEU) advises Government Departments and other public bodies about how to look after their historic assets. GHEU can provide advice at an early stage on drawing up proposals for development or disposal of the Government's historic estate.

The disposal of heritage assets should be handled carefully to comply with Government policies regarding their protection and conservation. This will require provisions in the disposal process to ensure compliance with relevant policies and guidance, protection measures through disposal and beyond, and the long-term management and monitoring.

¹⁵ National Planning Policy Framework (NPPF): www.gov.uk/government/publications/national-planning-policy-framework--2

¹⁶ Historic England website: www.historicengland.org.uk/

¹⁷ Protocol for the Care of the Government Historic Estate: www.historicengland.org.uk/images-books/publications/protocol-for-the-care-of-the-government-historic-estate/

¹⁸ The Disposal of Heritage Assets: www.historicengland.org.uk/images-books/publications/disposal-heritage-assets/

A2.3 Disposal Considerations

Particular considerations may include the following.

Prior to Market:

- Unused heritage assets need to be actively protected through regular inspection and maintenance (the associated cost of keeping an unused asset secure and regularly maintained should be considered at an early stage).
- Large historic sites should be handled holistically, to avoid isolating heritage assets.
- Costs of responsible disposal, including any potential costs and risks incurred in maintaining and protecting the building if it becomes vacant.
- The feasibility of adaptation and alternative use.
- Current planning use, and any alternative uses should be discussed with the local planning authority. This may result in a Supplementary Planning Document being produced.
- Whether the asset's statutory protection restricts certain economic use.
- Whether disposal to a charitable trust may be appropriate.
- Any options for re-use of an asset should be considered before deciding to sell.

During marketing:

- Whether to dispose on a freehold or long leasehold basis.
- Information about the significance and condition of heritage assets should be made available to potential purchasers.
- What method of sale is most appropriate i.e. private treaty, informal or formal tender.
- Once the method of sale is decided, is this to be conditional or unconditional. If conditional, what conditions are suitable. For example, the granting of a long leasehold interest may contain provisions within the lease in relation to future maintenance of the heritage asset, alternative uses, and or any repairing obligations.
- Whether the progressive transfer of an interest would be appropriate. For example, through a licence (the right to temporarily use the property, without any security of tenure), short term lease (less than 7 years), long term lease (over 25 years), freehold (either on a sole basis or through a joint partnership agreement).
- Whether the sale is to be subject to overage or clawback.

Post disposal:

The future management and monitoring should include:

- Inspection regime.
- Maintenance.
- Change notices and permissible works.

Determining Best Value

In determining the Best Value of the asset, any bid evaluation must consider wider heritage related factors. Accepting the highest purchase offer is not always appropriate, and the long term viability of the proposed use needs to be considered. Alternative methods of sale may need to be considered to ensure that heritage assets find an appropriate new owner. The terms on which a heritage asset is transferred out of public ownership need to strike a balance between the financial interests of the disposing body and securing social, economic or cultural benefits for the community.

A2.4 Examples of Good Practice

In some exceptional cases, trusts have been established to take on ownership and management of heritage assets of national importance, such as the historic dockyards at Chatham and Portsmouth, the Royal Gunpowder Mills at Waltham Abbey, Somerset House in London, and the Royal Naval College in Greenwich.

More recently, Admiralty Arch and the Old War Office (see below), both in London, have been sold to commercial purchasers on long leases with special provisions to ensure that their development is carried out in a manner fitting to their characteristics and heritage status.

Case Study - Admiralty Arch

Admiralty Arch was designated surplus to requirements following the Cabinet Office Estates Rationalisation project. The building could not be updated to deliver an acceptable, efficient standard of office accommodation for use within government. It is a Grade 1 listed building located in a prominent position at the start of the Mall and Whitehall. It is an iconic building with a strong visual connection to British History. Given the building's status and location, being in close proximity both to the Monarchy and the seat of Government meant there was a need to identify a long term, alternative use that was agreeable to all stakeholders but also viable, value for money for the taxpayer and sustainable.

Extensive stakeholder engagement was undertaken which included bodies such as Historic England, Westminster City Council and the Prince's Regeneration Trust. Given the building's prominent situation at the start of the Mall and Whitehall the Cabinet Office team also engaged the Royal Palaces, Metropolitan Police and Security Agencies in all discussions.

Architects were commissioned to investigate and design options within the building envelope that would be viable and supported by the building's fabric. As design options developed these were discussed in detail with all stakeholders. Careful consideration was given to the proposals, the restrictions on use that may be asked of any end user, and how to approach the market.

The objective was to maximise the overall value to the Exchequer, and balance this with a need to:

- Respect and protect the heritage of the building now and in the future.
- Enable the potential for public access.
- Ensure awareness of, and be prepared to respond to, potential security implications.

It was determined early in the project that a freehold sale would not meet these objectives, and the most suitable way to do so would be a long leasehold sale which allows Government to put in place measures that ensure the appropriate custodianship of the building. There are provisions on long term care and maintenance, use of materials, and particular uses within the building. For example, the third floor level immediately above the arches is dedicated for use as a public restaurant. This level of ongoing involvement and oversight would not be possible in a freehold sale.

Marketing commenced in November 2011, on the basis of a long leasehold opportunity to create a luxury landmark hotel, drawing on the building's iconic status. The architectural drawings based on two hotel options were released as part of the marketing pack and all bids were assessed on a wide criteria, of which price was one element.

Case Study - Old War Office

The Ministry of Defence (MOD) and the Government Property Unit (GPU) reviewed investment options to retain and use the Old War Office within Government as part of a modern working environment. The case for investment at the scale required could not be justified as offering value for money for the taxpayer. This was primarily due to the building's cellular formation and ornate interiors. Even after substantial investment, the building could not offer sufficient efficiencies to justify the substantial level of investment required. In 2014 the MOD declared the Old War Office building surplus to their requirements and so began discussion on potential options for disposal.

The Old War Office is a Grade II* listed building, which means it is designated as being of outstanding architectural or historic interest. Working closely with Historic England, Cabinet Office, the Security Services and the MOD the site was brought to market in September 2014.

A number of issues had to be addressed as part of any sale that required measures to be put in place and will need ongoing oversight to ensure compliance. For example, measures such as:

- Complying with Government security policy.
- Restrictions on use of parts of the building of the roof and balconies, and any windows facing Whitehall must be kept locked and alarmed.
- Rights of access. The MOD has reserved the right (on behalf of the Police and Security Services) to search the premises and a right of access to the roof and corner towers has been retained for surveillance purposes (for example during public and state events).

It was decided that a freehold sale would not address these issues and the most suitable way to do so would be a long leasehold sale. This allows Government to put in place measures that ensure the appropriate custodianship and on going compliance.

Therefore the freehold of the Old War Office remains under MOD ownership and continued oversight and security measures have been integrated into the lease, for example through the design and future use of the building governed by long term protocols and operating procedures. In particular, the Tenant must comply with all laws, regulations and policies applying to Government Security.

Bidders were assessed on their proposal for long term use as well as the financial offer to purchase. Key to this project was the need for the purchaser to prepare a Planning and Security Strategy Report which will forms the 'blueprint' for future use and address Government restrictions. This blueprint required MOD's approval before completion could occur and forms the basis of the future planning application to be made to Westminster City Council.

As part of pre-planning activities, the purchasers undertook a 'visioning' exercise with key public figures to better understand and honour the heritage of the building and forge a suitable future for the public good. They appointed the Prince's Regeneration Trust to oversee planning and heritage considerations.

Annex 3 - Issues Affecting Disposal

Having identified specific land as being surplus to requirements and appropriate for disposal on the open market, there are a variety of factors and considerations that may impact upon a sale. In this section some of the key factors and considerations affecting a sale are considered.

A3.1 Valuation

Land and property may be recorded in a Department's books at a value that does not reflect its actual disposal value. This valuation, often referred to as the 'Book Value', is used for accounting purposes. This book value can be calculated in a number of ways. It could be determined using a depreciated initial acquisition cost, a previous valuation figure, or a current valuation of the asset in its existing use - referred to as Existing Use Value (EUV). A valuation based on EUV reflects the existing use of land or property as at the date of valuation, and assumes that use will continue into the future. It ignores higher value alternative uses for the land or property.

As such, Departments should ensure they are aware of the Market Value (MV) of their surplus land and property, as an MV would incorporate higher value alternative uses. HM Treasury Green Book¹⁹ Annex 3 provides details on the valuation of land and buildings. Managing Public Money sets out that assets should be valued at market prices using Royal Institute Chartered Surveyors' Red Book.

Formal guidance on property valuation is provided within the Royal Institution of Chartered Surveyors Valuation Professional Standards (The Red Book)²⁰. It explains the standards for the majority of valuation work and sets out the bases upon which valuations should be made, identifying what might be acceptable assumptions, and uses Market Value as the base for current day valuations. Chartered surveyors are bound by its rules.

Departments are advised to obtain appropriate professional valuation advice prior to disposal.

A3.2 Options

An option is the right of one or both parties to a contract - if they so wish, and if the circumstances are covered by the terms of the contract - to exercise a right to do something or require the other party to do something in the future. However, the Crown does not usually grant options, and this course is not recommended.

An option can last for a specified period of time and can take effect when a predetermined set of circumstances arises. An example might be where a prospective purchaser requires time to obtain planning consent or is awaiting certain local infrastructure to be completed before being able to acquire the property. In such a circumstance, the Department may wish to secure the disposal and grant an option with a fixed time limit.

¹⁹ HM Treasury Green Book

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/220541/green_book_complete.pdf

²⁰ Royal Institution of Chartered Surveyors Valuation Professional Standards (The Red Book)
<http://www.rics.org/uk/knowledge/professional-guidance/red-book>

In cases where the land would not easily be sold - perhaps due to the planning situation, or to other local conditions, or where obtaining planning consent is by no means certain and could take some time to obtain - a purchaser may undertake to obtain planning permission in return for some discount on the market value of the land.

Such an option might therefore set out the area of the land concerned, the length of the option period, and the price at which the option could be exercised. It may also set out who would be responsible for the costs of obtaining planning consent and, if successful, for installing the infrastructure for the site. In some cases the purchaser may make an initial payment to the vendor to reflect the fact that the purchaser has been given an exclusive opportunity for a given period of time within which to gain planning consent.

Departments should note that in granting an option they lose control of the planning and disposal process for as long as the option exists. Since the Crown does not generally lack the resources to clarify the planning position on a property itself, the need for an option should be avoided wherever possible, for example by obtaining planning permission prior to disposing of the property.

There are other types of options that may, however, be of use to the selling Department. For example, Departments could agree an option to purchase all or part of a new building on pre-agreed terms. This could be beneficial in enabling acquisition without competition in the market whilst revealing the purchasing developers expectations as to value. This last can be useful in informing negotiations about overage. Departments should take advice from their property advisers on these issues, as there may be important effects on value. Legal advisers should also be consulted before entering into discussions about an option arrangement.

Options can arise where a disposal would not be straightforward and there might be little market demand for the subject property. In addition, they might arise where a developer is attempting to assemble land for development or in the case of town centre schemes.

Options often rely on a trigger event occurring to enable the option to be exercised. In such cases the agreement must set out clearly what the trigger event is. Clarity in these situations is vital if the option is to be enforceable (by either party). If the disposal price is to be affected by the trigger event, then the calculation process must also be expressed in the contract with complete clarity. Specialist advice may be required in these matters.

A3.3 Ransom Value

Some properties or pieces of land may have inflated values due to their impact on surrounding land values, e.g. a strip of land that would provide access to a potential development site to the rear. Its disproportionate effect on the value of the land at the rear could increase the value of the strip out of all proportion to its intrinsic value.

In such cases, it might be possible to dispose of the land for a price above expectations or enter into a joint venture in respect of developing the adjoining land.

Local agents should be able to advise on potential schemes near the subject land

Adjoining Land

Departments should have regard to any adjoining third party land that may have development potential. Consideration should be given to incorporating that land with your disposal. This may best be achieved by a Land Owner's Agreement. If the third party land is not included in the disposal, consider whether to retain a ransom strip. If so, consider if you need to ensure your buyer incorporates an access to that ransom strip.

A “build out” clause may give protection for your vendors to be able to share in an enhanced value if the two ownerships are combined after your disposal is completed.

Retained Land

If there is retained land, consider if any protections are necessary. This can be done in a Method Statement which can be detached from the contract. You will need to consider if there is any further land, shortly to become surplus, which warrants delaying the sale of the currently surplus land. The date and certainty of when the retained land will become surplus will be a consideration.

A3.4 Former Owners - Crichel Down Rules

Surplus land which was originally acquired compulsorily, under threat of compulsion, or under statutory blight provision may need to be offered back to the former owners of their successor under the Crichel Down Rules (The Rules)²¹.

Case Officers should determine whether the land was originally acquired under a compulsory purchase scheme or under the threat of compulsion. ‘Threat’ means only that the body acquiring the land had the powers to make a compulsory purchase order if it had wished: no explicit threat to serve a notice is required. For the majority of authorities, most land would have been acquired by or under the threat of compulsion. A threat of compulsion will be assumed in the case of a voluntary sale if a power to acquire the land compulsorily existed at the time unless the land was publicly or privately offered for sale immediately before the negotiations.

The Crichel Down Rules will also apply to land acquired under the statutory blight provisions. This is where the value of the land has been adversely affected by the planned compulsory acquisition of the land by a public authority and a statutory notice issued by the owner obliging the authority to purchase the subject land at full market value resulted in a deemed compulsory acquisition of the land.

In general, Departments wishing to dispose of surplus land to which the Rules apply, should give former owners or their successor first opportunity to repurchase the land, provided that it has not been materially changed in character since acquisition, e.g. a change from agricultural land to housing. Temporary buildings are generally regarded as not a material change. Other exceptions and the relevant time horizons are set out in the Rules. Disposal to former owners under these arrangements will be at a price reflecting current market value (including any development value), as determined by the Department’s property advisers.

²¹ Crichel Down Rules: <https://www.gov.uk/government/publications/compulsory-purchase-process-and-the-crichel-down-rules-guidance>

Research should therefore be undertaken to establish the history of the site. If the land was in fact acquired in this way then the Officer should take advice from property and legal advisers. Senior Responsible Owners and Case Officers should be aware that decisions made in respect of Criche Down Rules may be subjected to Judicial Review.

A3.5 Sitting Tenants

Surplus property earmarked for potential disposal may contain tenants or sub-tenants benefiting from security of tenure. Occupation of a small area of an otherwise potentially self-contained property, or of a vital area such as a reception hall, may have an effect on the disposal. Disposals of tenanted property should ideally be timed to coincide with a landlord's lease-break option or with the end of the lease to maximise the chance of obtaining vacant possession.

If disposal with vacant possession is preferred, then it may be necessary to negotiate with the tenant for a surrender of the lease(s). As tenants have rights to security of tenure under the Landlord and Tenant Act 1954 (unless specifically contracted out in the lease), this can be lengthy and costly. This is a complex area and property and legal advice should be obtained at an early stage.

If vacant possession cannot be obtained, or if the tenant(s) occupy a large proportion of the property, it may be necessary and sometimes preferable to sell the property with a sitting tenant. The presence of an established tenant with immediate rental income could make the property more desirable to potential purchasers.

It is important to seek advice in order to identify:

- How the disposal value will be affected by this situation (valuation advice).
- Whether vacant possession is required and how this can be achieved (legal advice).

In cases where the Department itself holds a lease from a commercial landlord it may sometimes be preferable to surrender the lease to the landlord rather than try to dispose of it to a third party. Advice from the Department's property advisers should be sought on this.

Case officers dealing with properties in Scotland should note that the provisions of the Landlord and Tenant Act 1954 (Part II), which provides security of tenure to commercial tenants, does not apply in Scotland.

A3.6 Lease Breaks

Where the Department occupies a leasehold interest in the property identified as surplus, the lease should be reviewed to establish whether there are any break clauses that would allow the Department to surrender. Provided a break clause is exercised correctly and there are no severe rental penalties, it may be possible to vacate a property with no further liabilities.

Particular care should be taken when exercising break options that any 'conditions precedent' in the lease has been complied with. Failure to fully comply may invalidate the service of a break notice. There is no de-minimis threshold applied to conditions precedent and the smallest non compliance may render a break notice invalid.

However, unless contractually excluded, operation of a break-clause will trigger a reinstatement or dilapidations liability. Departments should take this into account when considering this option.

A number of benefits may be achievable by exercising a lease break, particularly where the rent payable is above market value. Notices must be served as required by the lease terms and also by statute, for example, the Landlord and Tenant Act 1954 (Part II) (not applicable to Scotland). Notices will also need to be served in specified format and within specified time periods. Failure to adhere to these requirements can result in the Department being unable to exercise the break.

Break clauses may provide Departments with opportunities to negotiate existing lease terms, such as rental levels with landlords. A landlord may prefer a rent reduction to a void period.

Departments can also negotiate to exit a lease outside of the lease break options contained within the lease. Officers must take advice on these matters from property and legal advisers.

A3.7 Change of Landlord

When a new landlord acquires the superior interest in a property where a Department is the leaseholder, it creates potential opportunities. The new landlord may agree to a surrender of the Department's leasehold interest, or the creation of a longer lease that would potentially make a disposal easier for the Department.

Much will depend on understanding why the new landlord has acquired the property. Whilst it may be that they are considering the investment value of a property let to a government Department, a change in ownership may create opportunities of which the Department could take advantage.

Departments should seek advice on potential implications in the event of any change in landlord.

3.8 Vacant Property

Departments remain responsible for all aspects of stewardship of the property following vacation until disposal, even if not occupying it. If a freehold property, the Department will remain liable for the Capital Charge. If it is a leasehold property, then the Department will remain liable for the covenants under the lease including for the payment of rent. In addition, there will be the normal costs of ownership that accompany any property, such as Business Rates, insurance and any service charges that might apply.

As many of these costs can be mitigated, there may be some advantages in vacating the property. In addition, there may be savings due to not incurring expenditure on energy usage and cleaning costs. The Department may also take steps to improve the likelihood of a successful disposal that might not have been possible whilst remaining in occupation such as refurbishment or reinstatement.

A risk evaluation should be undertaken to assess the total costs against benefits of the property remaining empty over given periods of time.

Mitigating Costs

There are a number of outgoings that the Department will remain liable for despite vacating a property. Many of these can be reduced or cut completely.

Rent

This is one cost that cannot be either reduced or avoided. The landlord has a right to receive the rent, whether or not the Department is in occupation.

Business Rates

Government pays Business Rates on the non-residential properties it occupies. If the property is vacant, an application can be made to the Local Authority for 'Empty Rates' to be applied. Certain properties are exempt from business rates. Exemptions include agricultural land and buildings (including fish farms), buildings used for training or welfare or disabled people, and buildings registered for public religious worship or church halls.

The relevant Local Authority should be advised at the earliest opportunity that a property is vacant.

Business rates are not paid on empty buildings for 3 months, after which most businesses must pay full business rates.

Properties that can currently be extended empty property relief include:

- Industrial premises (e.g. warehouses) are exempt for a further 3 months.
- Listed buildings – until they're reoccupied.
- Buildings with a rateable value under £2,600 – until they're reoccupied.
- Properties owned by charities, where the property's next use will be mostly for charitable purposes.
- Community amateur sports clubs buildings, where the next use will be mostly as a sports club.

Leases occasionally include clauses which can indemnify landlords losing the right to rates relief on account of the tenant already having enjoyed such relief.

Rating is a specialist area and the Department should take advice from its rating advisers to ascertain what, if any, relief from Business Rates will be available.

Insurance (if applicable)

Although the Crown normally self-insures, where a lease contains a specific insurance clause it may be possible to reduce premiums if the property is vacant, provided that the property is adequately secured against illegal entry and potential vandalism.

Managing Public Money²² Annex 4.4 (Insurance) provides further advice regarding insurance.

Utility Costs (water, electricity, gas etc)

Utilities such as water, gas and electricity can be disconnected, thus removing associated costs. There will be a charge for disconnection, as well as one for re-connection, which may be necessary in order to make a successful disposal. An electricity supply may be necessary if an alarm system is in operation and the Department decides to maintain that facility

²² Managing Public Money: <https://www.gov.uk/government/publications/managing-public-money>

A3.9 Works in Lieu of Payment

Within a programme of disposals it may be that smaller replacement facilities are required or that other works such as new buildings, new highways, landscaping etc. are needed as a part of an improvement exercise. In this case, it is possible to require a purchaser to provide these works as part consideration for the property. Any proposed works in lieu of payment should be thoroughly examined at the option appraisal stage to ensure the maximum value for money for the taxpayer. The works required should be clearly specified in any marketing package in order that there is competition between bidders in relation to procurement of these works. Where works in lieu of payment are being considered as part of a disposal / rationalisation exercise it is important to seek advice from property advisers.

A3.10 Scotland

There are some aspects of property law and processes that are different in Scotland compared to England and Wales. Where relevant, these have been noted as part of the text of this Guide. However, public sector bodies are advised to either have regard to their own internal guidance or obtain appropriate professional advice. These guidance notes do not seek to be a substitute for specialist professional advice.

A3.11 Leasehold Property and Disposal

A leasehold interest is a form of land / property ownership derived from a lease providing a legal interest in land / property of a limited duration created on the making of a lease, with rent generally being payable.

Disposal of Long Leasehold Interest

In many respects, a long leasehold interest can be sold as if it were a freehold interest, providing it possesses capital value. This exists primarily as a result of the rent passing under the lease being significantly lower than the Market Rent for the premises, with such a differential continuing for the term of the lease. As with all leasehold interests, a disposal in the form of assignment to a third party may not completely absolve the Department of all liabilities due to issues of privity of contract (see guidance below on assignment of leases).

Surrender

If a leasehold property is identified as surplus but there is no contract break in the near future, it may be possible to negotiate a surrender of a lease. This will be more attractive to a landlord in a strong market where it will be easy to re-let at a higher rent. A surrender premium including any dilapidations liabilities should be set out in the final settlement.

There may be situations where the value of the freehold interest with vacant possession exceeds the combined value of the freeholder's interest and the Department's leasehold interest. In those circumstances the unexpired term may hold a special value to the landlord that will be realised by 'marrying' the two interests together and it may be possible to obtain a premium from the freeholder in return for a surrender. Conversely, there may be a negative value and the Department may need to pay a 'reverse premium' in order to terminate the lease prior to its natural expiry. It will be important to obtain valuation advice on this matter.

If the Department needs to pay a ‘reverse premium’ in order to surrender the lease, it may wish to consider how best to minimise the level of the premium. Common methods include:

- Subletting on the best terms achievable.
- Entering into a lease agreement with another Department prior to negotiating a surrender. (The other Department should be made fully aware of intentions).

In certain circumstances it may also be possible to combine such activity and negotiations with the landlord to secure the surrender of the existing lease and the granting of a new interest to the ingoing occupier that better matches the objectives of the parties. This type of negotiation can assist landlords to maintain income or to facilitate redevelopment.

Where a Department has difficulty in making a capital payment for surrender, it may be attractive to both parties for the Department to continue with a series of annual payments instead. Professional advice from property advisers would be required to negotiate the correct level of payments and to establish what, if any, liabilities there will be for dilapidations.

Where a Department has a number of surplus leaseholds or leases that might be difficult to dispose of directly, they might wish to consider outsourcing of the disposal of these leasehold liabilities to a specialist property disposal manager. Such a transaction could result in the transfer the risk in exchange for a capital payment. Specialist advice should be sought before proceeding.

Merger of Interests

A merger of interests can occur either by a leaseholder acquiring the superior interest (freehold, headlease etc.) or by a freeholder or superior leaseholder acquiring the interest below. Although not technically a disposal route, a merger of interests can directly or indirectly enhance the disposal value.

Acquiring the freehold would also give a Department the flexibility to dispose or sublet part only of the property, change its use, effect an internal transfer or undertake improvement works (prior to either disposal or letting). It may also be used as part of a strategy to release the Department from an onerous situation and enhance the value of the property interest to be sold.

Alternatively, the landlord might agree to a joint disposal programme in which both interests are marketed and disposed of at the same time. When considering the future of property identified as surplus, it is important to consider all of these options.

Assignment

Assignment (referred to as ‘assigntion’ in Scotland) is the transfer of the whole leasehold interest to another party and is therefore a method of ‘releasing’ property. It is also a method of passing on the responsibilities for the covenants set out in the lease.

If the assignment is to occur under strong market conditions where the passing rent is below the market rent and there is a significant time until the next rent review, a premium can be charged to a new tenant (assignee) for the benefit of the lease. Conversely, should the market not be strong and the current rent is higher than the market level, or the lease terms are particularly onerous, it may be necessary to offer an inducement to any incoming assignee by way of a ‘reverse premium’.

Where a ‘special purchaser’ can be found, this should be considered, particularly if the property being disposed of is accommodation in a multi-let property. In such a situation a special purchaser may exist amongst the other occupiers. The possibility of obtaining additional accommodation in the same property might induce a potential assignee to pay a higher premium than would otherwise have been obtained.

Assignment usually requires the consent of the landlord. Checks should establish whether:

- Consent is required.
- The lease restricts assignment.
- The lease sets down procedures for obtaining consent for assignment, particularly if this involves a long lead-time.

Premiums paid to an incoming tenant in return for a lease assignment may be treated as a taxable supply and be standard rated for VAT. It is important, therefore, where a property is being disposed of by way of a reverse premium that the VAT implications have been fully considered.

For leases completed before 1st January 1996, under the doctrine of ‘Privity of Contract’ an assignor remains liable for the duration of the lease for breaches of covenant by its assignee at any time during the remaining term of the lease. Therefore, if a Department assigns such a lease, it may be ultimately liable if either its assignee or a subsequent tenant defaults on rent payment or other covenant. This liability could arise at any time before lease expiry and could occur many years after the date of assignment.

On 1st January 1996 the Landlord and Tenant (Covenants) Act 1995 came into effect. This removed from leases the effects of privity of contract and provided that when an assignment takes place all the responsibilities and liabilities for the covenants and terms of the lease pass to the assignee (unless they were completed out of a contractual obligation entered into before this date).

Landlords can, however, require an assigning lessee to create an Authorised Guarantee Agreement (AGA). An AGA is a form of guarantee entered into by an outgoing tenant, in which it guarantees that the incoming tenant will comply with all tenant covenants, its assignee’s obligations under the lease. This contractually binds the current tenant should the new tenant default. Therefore strength of covenant is very important when considering whether to assign a lease, particularly one granted before 1st January 1996. It is, therefore, important to thoroughly investigate the financial standing of any assignee and their ability to meet lease demands throughout the term.

Departments should assess each case on the individual circumstances after taking appropriate legal and commercial advice.

Landlord and Tenant legislation provides that a landlord should not unreasonably refuse consent for an assignment, unless the lease states in absolute terms that the tenant may not assign. However, the Department’s legal advisers should be consulted.

A key obligation that may face the assigning department is that of dilapidations. If the lease provides for interim dilapidations in the event of an assignment, the extent of these will need to be ascertained and, where necessary, dealt with. It may be possible to negotiate with the landlord to enable the liability to pass to the assignee and the department’s property advisers should be asked to advise on this matter.

Advice should also be sought in respect of a future liability for dilapidations. Where privity of contract remains, it is possible that the department will be faced with a dilapidations claim some time in the future if the new assignee, or any future assignee, defaults.

Case Officers in Scotland should note that Scottish leases did not carry with them privity of contract in the same way that leases in England and Wales did before 1996. Some Scottish leases therefore carried clauses that made tenants jointly and severally liable with their successors and future assignees for the performance of their leasehold obligations. Departments should take care when reviewing these leases as these clauses introduce the principles of privity of contract into Scottish leases.

Internal transfer of leasehold properties

It is possible that another Department will wish to acquire property similar to the property identified as surplus. The Government Property Unit can help to establish where there may be options for internal transfers. A valuation will then establish the market value and determine whether it would be appropriate to apply a premium or reverse premium.

Senior Responsible Owners and Case Officers should note that the Crown is indivisible, and most Departments hold property in the name of the Secretary of State. As such an assignment to another Secretary of State should not be necessary. They are advised to seek legal advice.

Disposing bodies will need to seek legal advice on transfers between Departments and Non Departmental Public Bodies due to the different legal status of each.

Subletting

Subletting is the creation of a lesser leasehold interest to another tenant (the subtenant) to whom the Department is then the landlord. It is not a method of disposal recommended by the Treasury, except in special circumstances. Following the grant of the sub-lease, the Department remains liable for all its covenants under the head-lease while at the same time it must collect rent and manage the sub-letting.

Subletting should only be considered as part of a disposal strategy or estate rationalisation programme, rather than as a method to reduce or limit a Department's exposure to property liabilities in a particular property.

Subletting should generally only be considered as a short term measure. An example would be where a lease has a short unexpired term and the Department is unable to assign its interest. If the sub-letting is only intended as a temporary measure then the Department should ensure that it does not lose security of tenure by giving up occupation.

As with assignment, a landlord's consent is usually required before a subletting can take effect and the lease itself may restrict sub-letting. The Department should ensure that legal advice is sought on these matters before arranging subletting. Legal advisers should also address issues of security of tenure, dilapidations and environmental regulations/legislation where necessary.

The Department will need to take advice from its property and legal advisers in connection with the key terms of the sub-lease to be granted. Key considerations will include:

- Use conditions and restrictions.
- Rent review pattern.
- Break clauses.
- Repairing and insuring covenants.
- Alienation and subletting permissions and restrictions.
- Responsibility for repair and upkeep of common areas.
- Exclusion from protection under Part II of the Landlord and Tenant Act 1954.
- Permissions for alterations or improvements by the sub-lessee.
- Whether any improvements will be disregarded at rent review.
- If any improvements take place and reinstatement when the sub-lease ends.
- The financial status of the proposed sub-lessee.
- Whether a new sub-lessee's use of the premises will affect other users of the property.
- The appropriate rental level and whether a premium will be obtainable.
- Whether some or all of the dilapidations liability can be transferred to the sub-lessee.
- Whether a subletting rent can be below the rent passing under the superior lease.

A3.12 Property Status

When determining whether to dispose of land Departments should take advice from their selling agents in identifying the most appropriate disposal route. The choice of disposal route may be influenced by a property's 'status'. A property may be available for sale:

- With the benefit of vacant possession.
- Under occupation by a single tenant.
- Under occupation by two or more tenants.
- Under part occupation by a single tenant.

Advice will be required to ascertain the most appropriate disposal route for the property, together with costs and lead times associated.

A property's status will have an impact on the value attainable by a sale in the open market. For example, in certain markets a freehold property for sale with the benefit of vacant possession may attain a higher disposal price than one that is let. However, a property let to a single 'high quality' tenant is more likely to attract interest and a higher price as a sound investment. Professional advice is required to consider the varying impact of a change in a property's status before disposal.

A Department should consider whether the property's status ought to be changed prior to disposal. It may be possible to vacate the property or that a number of interests can be 'married' together in order to increase a property's attractiveness to the market. Where the property is let, it may be possible to re-structure the leases to improve a property's marketability.

In some instances, it may be preferable to negotiate with the tenant for a surrender of its lease(s). Case Officers will need to assess the time and cost involved as tenants have rights to security of tenure under the Landlord and Tenant Act 1954 (unless the lease is specifically contracted out). They should check whether the lease contains any break clauses that could enable the Department to obtain vacant possession prior to disposal. Professional advice should be obtained in good time to enable any appropriate action.

Selecting the most appropriate method of sale is vital to achieving a successful sale at a good price. Departments should reserve the right not to accept the highest, or any, offer if there are good commercial reasons for doing so.

A3.13 Sale and Leaseback

In cases where a property is held on a freehold basis and a Department wishes to retain its use, either whole or in part, there may be a case for disposing of the freehold interest and taking a leaseback. This can serve a number of purposes, such as:

- Releasing capital in return for an annual revenue expenditure.
- Maximising the benefit of a vibrant market when realisation value may be high.
- Reducing the amount of space occupied by taking a lease back on only part of the premises. either for a short time or in the long term.

Any sale and leaseback proposal must be discussed with the Government Property Unit in the first instance. There should be a clear business reason for taking this approach and a business case should provide sufficient justification for the Senior Responsible Owner to be able to give approval to proceed. Not only should a sale and leaseback represent best value for money, but it should also appear in the Department's spending plans.

In some instances, a purchaser may be prepared to pay more for a property if there is a guarantee of a government tenant taking immediate occupation, even if that is only for a short or medium term (say 3 – 10 years). If this fits in with the Department's property strategy then such a form of disposal may be advantageous to the Department and, therefore, to the taxpayer also.

Annex 4 - Advisers

A4.1 Internal Advisers

The Department may have a number of internal advisers available as a first port of call, with either legal or property expertise. When reviewing the nature of property advice and expertise required for a specific disposal project, the Project Manager or Case Officer should consider whether there are internal resources that are appropriate and capable of providing the necessary advice. Additionally, advice is available from the Government Property Unit to support Departmental disposal teams. Also, the District Valuer Service (DVS) arm of the Valuation Office Agency can offer independent valuation and professional property advice to public sector bodies.

These resources should be called upon to assist in the process of determining which professional advisers may be required in a particular project and how the procurement process should be approached.

Land transactions usually involve significant capital or revenue sums. It is therefore important that the Department uses qualified professionals with the appropriate expertise for job in hand.

A4.2 External Advisers

Whilst external advisers may be relied upon to supply relevant professional and technical advice, that advice should support decision making rather than be a surrogate for it. The Senior Responsible Owner for the disposal retains responsibility for decision making and must ensure that it has sufficient capability and resource to act as an 'intelligent client' for the services of external advisers and service providers.

It is important to appoint suitably qualified professional consultants to advise on land disposals. The terms and conditions must be clear and agreed.

Specialist Advisers

Some tasks will require specialist advice. These may include clawback arrangements; development planning; and situations where Crichel Down Rules might apply. Where consultants on the framework agreement do not have expertise in these matters, then a case should be made to justify the use of specialist consultants outside the framework agreement. The need for specialist advisers should be identified at the stage of setting up the project or programme and as part of developing the business case.

Legal Advisers

The Department may be able to call upon internal legal advisers to manage the legal aspects of the project. However, there may be specialist aspects of the project that will require external legal advisers. This may include expert knowledge on issues such as:

- Landlord and tenant legislation and procedures.
- Conveyancing.
- Clawback arrangements or restrictive covenants.
- Conditional contracts.

Financial Advisers

The Department may be able to call upon internal legal advisers to manage the financial aspects of the project. However, there may be specialist aspects of the project that will require external financial advisers. This may include expert knowledge on issues such as:

- Financial appraisals.
- Financial modelling.
- Cost benefit analysis exercises.

A 4.3 Appointing Advisers and Agents

The Project Manager or Case Officer should access framework agreements held between Departments and external advisers and / or agents for this kind of work.

As an alternative to the Department's own framework agreements, the Department may refer to the framework agreements held by Crown Commercial Services²³, or the Homes and Communities Agency²⁴. These bodies have framework agreements with a variety of consultants and contractors that may be able to provide the appropriate advice. They can be used to appoint a contractor directly or to run a mini competition whereby framework incumbents are invited to provide details of the service that they will provide in response to a requirement and at what price.

If specialist advice is required that is not available from a supplier on either the Department's framework or that of Crown Commercial Services, the Department may need to undertake a procurement in accordance with the best practice procurement requirements. Departments can contact CCS to clarify that the service is available via property@crowncommercial.gov.uk

For fee levels exceeding Official Journal of the European Union (OJEU)²⁵ thresholds, advisers or agents may need to be appointed by tender process in accordance with Department's procurement rules and the usual value for money considerations. The Project Manager / Case Officer should identify whether the subject disposal will warrant this process. A check should also be made to establish whether OJEU would need to be issued to invite expressions of interest or tenders from advisers or agents.

It is not always necessary to carry out a formal tender process. If agents or advisers are to be invited to tender using the most appropriate framework on a formal basis, the Project Manager or Case Officer should ensure that the procurement process accords with the Department's own procurement rules, including that:

- A tender is prepared.
- The appointment is advertised in appropriate places or selected suppliers are invited to tender.
- The process is set out in the tender invitation, with notes about roles and responsibilities.
- The receipt of tenders is appropriately coordinated, with an impartial person in the Department's procurement Department overseeing the process if necessary to ensure that it meets requirements.

²³ Crown Commercial Services: <https://www.gov.uk/government/organisations/crown-commercial-service>

²⁴ Homes and Communities Agency: <https://www.gov.uk/government/organisations/homes-and-communities-agency>

²⁵ Official Journal of the European Union (OJEU): <http://www.ojec.com/>

A 4.4 Frameworks

A framework agreement exists where a Department agrees with a number of external consultants the terms upon which they would undertake work for the Department and, in return, the consultants will be given the opportunity to tender for work from time to time in a more streamlined process.

The Case Officer should establish whether a framework exists in the Department or through Crown Commercial Services or the Homes and Communities Agency for the type of work that is to be commissioned. Departments are not obliged to use framework agreements to procure services but must be able to demonstrate value for money in their procurement choice.

The nature of advice likely to be required for property disposals will include:

- Strategic property consultancy.
- Estate agency.
- Planning advice.
- Legal advice.

There may be occasions when the advice required cannot be obtained from consultants on the framework. In these instances, a justification should be made and a tendering exercise undertaken in order to bring in the required expertise.

The Delivery Partner Panel (DPP2)

The HCA's Delivery Partner Panel (DPP2) is an OJEU compliant Framework panel that can be used for the disposal of residential and mixed-use development on public sector land where the procurement of Works is involved. It speeds up the disposal process by only requiring a 'mini-completion' to be undertaken, rather than a full OJEU tender.

Panel Members comprise of leading house builders, developers and contractors who have a track record of delivering housing-led schemes. The panel is currently made up of four 'Lots', South and South East, South and South West, Midlands and North and there are 25 panel members per lot. The framework has been procured by the HCA, but can be used by other public sector bodies, free of charge, when disposing of land and when procuring construction works.

The DPP2 can be used to procure a developer to take responsibility for all stages of the development process, from obtaining planning permission, through design and construction of homes and associated infrastructure, to marketing and sales. It can also be used for soft market testing, which provides the opportunity of gaining views from Panel Members on the viability and best way to approach a specific proposal before offering the opportunity to the market. Panel Members can provide soft market testing and early stage viability advice free of charge.

The DPP2 services include:

- Development and disposal of mixed-use, housing-led sites; mixed-use elements to include community facilities, retail or commercial development ancillary to and in support of housing.
- Refurbishment / retrofit of existing houses, residential buildings, empty homes and associated buildings.
- Refurbishment, restoration, conversion of heritage or other buildings for residential use

- Demolition, site remediation and enabling works to prepare sites for residential or mixed-use development.
- Development of Extra Care accommodation.
- Self-build enabling as part of a larger development.
- Maintenance and site management.

DPP2 commenced on 1 April 2013 and will run until 31 March 2017 when DPP3 will be in place. Projects procured through the Panel can however run on for up to ten years beyond the end of the Panel. Public bodies wishing to procure through the Panel are required to sign up to an access agreement with the HCA, which confirms that they will take responsibility for their procurement through DPP2. There is no obligation on Partners to use the Panel once they have signed up and provision of HCA funding is not dependent on Partners using the Panel.

Once the access agreement has been signed, the HCA will provide the Partner with access to the DPP2 e-tendering system, which holds additional information necessary to enable them to use the Panel (e.g. Panel Members' contact details, tendered overheads and profit rates, and individual Framework Agreements). HCA will offer help and advice in use of the panel only if required, otherwise partners are free to proceed with their procurements through the panel.

Further information on the DPP2 and its Members can be found in the DPP2 Handbook, available via HCA's external website: <https://www.gov.uk/guidance/delivery-partner-panel-2>

The HCAs DPP2 Team can also be contacted on: dpp2@hca.gsi.gov.uk

DPP2 does not operate in London, but the Greater London Authority (GLA) has procured a similar panel that covers London. Details can be obtained from LDP@london.gov.uk

The HCA's Technical Panels

The HCA maintains a number of technical framework panels to help with the delivery of its programmes. These panels are also available for use, free of charge, by a number of other public sector bodies to assist with development related services. The panels have been procured through fully compliant OJEU processes, and offer a quick and efficient means to procure high quality, good value development related technical services such as property and project management, engineering, planning, and multidisciplinary services. There are currently two panels in operation:

The Property Panel 2014-18. Services include:

Property consultancy services.
 Property Agency services.
 Estate Management services.
 Property Investment and Financial services.
 Valuation Services.
 Lead Consultant and Project Management services.
 General services.

The Multidisciplinary Panel 2014-18. Services include:

- Property.
- Project Management and Cost Management.
- Engineering.
- Architecture.
- Planning.
- Master planning.
- Landscape Architecture.
- Ecology and Biodiversity.
- Construction Design and Management (CDM) Coordinator.

Users of the panels have reported significant savings in procurement time, and rates provided are extremely competitive, in many cases much lower than for comparable panels or for open procurement.

Further information on the panels and their Members can be found in the Panels Handbook, available via HCA's external website: <https://www.gov.uk/guidance/technical-panels>. The HCA's Panel Team can also be contacted on consultantpanels@hca.gsi.gov.uk. Departments will be required to sign up to an Technical panels access agreement with the HCA in order to use the panels.